

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 68

LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA; AFL-CIO, ET AL., PETITIONERS,

vs.

NATIONAL LABOR RELATIONS BOARD.

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

PETITION FOR CERTIORARI FILED APRIL 8, 1960

CERTIORARI GRANTED JUNE 27, 1960

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

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**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

No. 12,710

NATIONAL LABOR RELATIONS BOARD, Petitioner,

versus

**LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS
OF AMERICA, AFL-CIO; INDIANAPOLIS AND CENTRAL IN-
DIANA DISTRICT COUNCIL, UNITED BROTHERHOOD OF CAR-
PENTERS AND JOINERS OF AMERICA, AFL-CIO; and UNITED
BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
AFL-CIO, Respondents.**

**PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL
LABOR RELATIONS BOARD**

Appendix to Petitioner's Brief—Filed August 27, 1959

[fol. 1]

**BEFORE THE
NATIONAL LABOR RELATIONS BOARD
NINTH REGION**

Case No. 35-CB-203

Case No. 35-CB-203-1

In the Matter of

INDIANAPOLIS AND CENTRAL INDIANA DISTRICT COUNCIL,
UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF
AMERICA, AFL-CIO and LOCAL 60, UNITED BROTHERHOOD
OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO, and

MECHANICAL HANDLING SYSTEMS, INCORPORATED,
Party to the Contract,

and

HAFORD B. CARTER, an Individual, ELZA STEVENSON,
an Individual.

Case No. 35-CB-220

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF
AMERICA, AFL-CIO, and

MECHANICAL HANDLING SYSTEMS, INCORPORATED,
Party to the Contract,

and

HAFORD B. CARTER, an Individual.

[fol. 3]

DECISION AND ORDER—December 15, 1958

On January 30, 1958, Trial Examiner Louis Plost issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents, Indianapolis and Central

Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, hereafter referred to as the Council, and Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, hereafter referred to as the Local, have engaged in and are engaging in certain unfair labor practices in violation of 8 (b) (1) (A) and 8 (b) (2), and recommending that they cease and desist therefrom and take certain affirmative action as set forth in the copy of the Intermediate Report attached hereto.

He further found that the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, hereafter referred to as the International, had not engaged in any of the unfair practices alleged in the complaint and recommended the dismissal of the complaint in Case No. 35-CB-220.

None of the Respondents filed exceptions. However, the General Counsel filed exceptions, and a supporting brief. On May 9, 1958, the International filed a Motion to Dismiss and a Memorandum in support thereof, to which the General Counsel filed Suggestions in Opposition to Respondent's Motion to Dismiss.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case, and adopts the findings, conclusions, and recommendations of the Trial Examiner only to the extent consistent herewith.

The Motion to Dismiss, filed by the International, seeks to have the Board dismiss the proceedings insofar as the International is concerned, on the ground that the exceptions filed by the General Counsel on February 21, 1958, were not served on the International "immediately" as prescribed by Section 102.46 of the Board's Rules and Regulations. The order transferring the cases to the NLRB stated that "Exceptions to the Intermediate Report must be received by the Board in Washington, D. C., on or before February 24, 1958."

In acknowledgment of the International's Motion to Dismiss, the Board's Assistant Executive Secretary wrote

McGowan, on May 22, 1958, carbon copy to the International, granting an extension until June 11, 1958, to file exceptions and brief in this proceeding.

The General Counsel asserts in opposition to the Motion to Dismiss that exceptions and a brief in support thereof were mailed to the Board on February 21, 1958, and at the same time copies were served upon each of the parties by duly mailing said copies by certified mail pursuant to Sections 102.46 and 102.89 of the Board's Rules and Regulations. In support thereof, the General Counsel submits [fol. 5] an affidavit that such mailing was made by certified mail; that the certified article number is C-255895; that efforts to trace said certified letter have been unavailing; that no certified return receipt has been received by the General Counsel from the International, but that such receipts have been received from Local 60 and the Council which mailings were made at the same time.

William A. McGowan is the Assistant General Counsel of the International and appeared at the hearing for Local 60 and the Council. Also, he, with Francis X. Ward, the International's General Counsel, appeared at the hearing for the International. Both McGowan and Ward signed the Motion to Dismiss. Undisputed is the fact that both Local 60 and the Council received the exceptions and brief mailed by the General Counsel.

Because of the inability to trace the certified mailing of the exceptions and brief, personal service of such items was obtained on the General Counsel of the International on the 18th day of April, 1958. It is this service which the International contests, contending that such service 51 days after the due date for exceptions does not constitute "immediate" service within the Board's Rules and Regulations.

As urged by the International, the Board's Rules and Regulations, Section 102.46, requires that the parties be served with copies of the exceptions immediately after filing same with the Board. However, Section 102.90 provides that the date of service shall be the day when the matter is deposited in the mail, and that failure to make proof of service does not affect the validity of service.

The General Counsel used an authorized method of service by depositing in the United States mail, duly certified, copies of its exceptions and brief properly ad-

dressed. After failing in its attempt to trace the documents, personal service was made on the General Counsel of the International. Thus it appears that the General Counsel has done all that could be done under the circumstances. Thereafter, the Respondent International was granted adequate additional time to file an answer to the exceptions and brief. It is clear that the exceptions and brief were filed timely on Local 60 and the Council, both [fol. 6] represented by the International's assistant general counsel who also represented the International in these proceedings. The International makes no contention nor showing that it was prejudiced in any manner, and due to the extension of time heretofore granted the International, we find no prejudice nor lack of due process.

Under these circumstances, we deny the International's Motion to Dismiss and find that valid service was made on the International.

The Trial Examiner found that the Respondents, the Council and Local 60, had violated 8 (b) (1) (A) and 8 (b) (2) of the Act. No exceptions were filed by either of the Respondents. Therefore, we adopt the findings of the Trial Examiner, not for the reasons he ascribes, but for the reasons hereinafter stated.

The Trial Examiner found that the International's agreement of May 10, 1956, with the Employer is illegal. But, he found no connection between this agreement and the agreement made later between the Employer and the Respondents, the Council and Local 60. We disagree.

The International's agreement in this case is identical to the agreement involved in the Marley case.¹ As the Board said in that case, it is unrealistic to suggest that the arrangements of the Local and Council at local projects have no relationship to the master agreement between the International and the Employer. We find that the two agreements, one nationwide and with the parent union, and the other, areawide with the Local and Council, dovetailed so precisely so as to reveal a single comprehensive scheme for complete evasion of the statutory ban on all closed shops.

¹ The Marley Company, 117 NLRB 107.

The Respondent International filed no exceptions to the finding that the agreement of May 10, 1956 was illegal. By its terms the Agreement binds the Company to employ members of the Carpenters international. In view of the reference therein to rules and regulations established by the Local of any particular area, the working rules and regulations of the Council and Local 60 were also incorporated [fol. 7] into the contract as if "they had been physically embodied in the document itself." The rules of the Council provide, inter alia, that no member is permitted to work with a member or ex-member who has been suspended or fined until the fine is paid; and, that no member is permitted to work with non-members without permission of the Council. The Constitution of the Council, which also provides working rules, provides for a clearance card committee to examine all clearance cards and recommend their acceptance to the Local; that the finances of the District Council were to be derived, from the sale of working cards and permits, etc.; that the District Council has sole right to issue quarterly working cards to Locals for members "together with such extra cards as may possibly be required in addition thereto, taking a receipt therefrom, and the Local Union shall be held strictly accountable therefor;" for the Council's right to full control over working cards with authority to revoke; that members coming into the district are required to procure working cards before seeking employment; that members of construction (sic) whether following trade actively or not, are required to secure working cards; that carpenters are subject to fine if the working card is not presented to the steward before going to work; and, the requirement of a foreman for every three journeymen—who must be a member in good standing and is charged with the responsibility of enforcing the Trade Rules. We find that working rules which provide such limitations on hiring as do these set out above, together with the contract, are outlawed by statute in that they establish closed shop conditions.

The Trial Examiner found the existence of an oral agreement between Local 60 and the Council and the Employer concerning the employment conditions of employees to be hired, and that they were aware that a denial of a clearance or referral by them would deprive an applicant of

employment in violation of 8 (b) (1) (A) and 8 (b) (2). It is our opinion that such oral agreement between the Employer and Local 60 and the Council was to implement the existing master contract between the Employer and the Respondent International, and was a part of a single comprehensive scheme for complete evasion of the statutory ban on closed shops.

Accordingly, we find that the three Respondents, the International, Council, and Local 60, violated Sections 8 (b) (1) (A) and 8 (b) (2) of the Act in maintaining and enforcing an agreement which established closed shop preferential hiring conditions. Furthermore, we find that by causing or attempting to cause the Company to refuse to hire Elza Stevenson, the Respondents, Council and Local 60, violated 8 (b) (1) (A) and 8 (b) (2); and that the Respondents, International, the Council, and Local 60, by causing or attempting to cause the Company to refuse to hire Hafford B. Carter violated 8 (b) (1) (A) and 8 (b) (2).²

The Remedy

In addition to the Trial Examiner's finding that the Respondents, Local 60 and the Council, have engaged in unfair labor practices, we have found that the International also engaged in the same unfair labor practices. It will be recommended that all the Respondents cease and desist therefrom and take certain affirmative action, designed to effectuate the policies of the Act.

As part of the remedy, therefore, we shall order the Respondents jointly and severally, to make whole Hafford B. Carter,³ and the Respondents, excepting the International, to make whole Elza Stevenson, for any loss of pay they may have suffered as a result of the discrimination against them by payment to each of them a sum of money equal to that which each would normally have earned as

² Elza Stevenson did not file a charge against the International.

³ However, as the Trial Examiner recommended dismissing the complaint filed by Carter against the International, we shall exclude the period from the date of the Intermediate Report to the date of the Order herein in computing the award of back pay for which the Respondent International is responsible.

wages but for the discrimination, less his net earnings during such period, the back pay to be computed in the manner prescribed by the Board in *F. W. Woolworth Company*, 90 NLRB 289.

[fol. 9] Since it has been found that the Respondents have maintained and enforced an unlawful agreement which involves terms and conditions of employment and practices pursuant thereto violative of 8 (b) (1) (A) and 8 (b) (2), it will be ordered that they refrain from maintaining and enforcing its unlawful agreement with Mechanical Handling Systems, Incorporated. Furthermore, since the Board has had before it a similar agreement executed by the Respondents and another employer,⁴ we shall require the Respondents to cease and desist from maintaining and enforcing such agreements; understandings, or practices, not only with Mechanical Handling Systems, Incorporated, but with any other employers, provided that any such employers which are parties to such agreements or arrangements, are employers over which the Board would assert jurisdiction in an appropriate proceeding.

Furthermore, as we find that dues, non-membership dues, assessments, and work permit fees, were collected under the illegal contract as the price employees paid in order to obtain or retain their jobs, we do not believe it would effectuate the policies of the Act to permit the retention of the payments which have been unlawfully exacted from the employees.

In addition therefore, we shall order the Respondents, jointly or severally, to refund to the employees involved the dues, non-membership dues, assessments, and work permit fees, paid by the employees as a price for their employment.⁵ These remedial provisions, we believe, are appropriate and necessary to expunge the coercive effect of Respondents' unfair labor practices.⁶

⁴ *The Marley Company*, 117 NLRB 107, *supra*.

⁵ Respondents' liability for reimbursement shall include the period beginning six months prior to the filing and service of the initial charge against each Respondent herein and shall extend to all such monies thereafter collected.

⁶ See *Los Angeles-Seattle Motor Express, Incorporated*, 121 NLRB No. 205.

[fol. 10]

ORDER

The Respondents, Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO and United Brotherhood of Carpenters and Joiners of America, AFL-CIO, their officers, representatives, agents, and assigns shall:

(A) Cease and desist from:

(1) Executing, maintaining, performing, or enforcing any agreement, understanding, or practice with Mechanical Handling Systems, Incorporated, or any other employer which requires membership in its organization as a condition of employment, except as authorized by Section 8 (a) (3) of the Act.

(2) Causing and attempting to cause the Employer, Mechanical Handling Systems, Inc., its officers, agents, or assigns, or any other employer, to refuse to hire employees unless they have obtained referral slips from or have been cleared by either of them or to discriminate against the employees in any term or condition of employment, except to the extent permitted by Section 8 (a) (3) of the Act.

(3) In any like or related manner restraining or coercing employees of the Mechanical Handling Systems, Inc., or of any other employer in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement permitted by Section 8 (a) (3) of the Act.

(B) Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(1) Jointly and severally make Hafford B. Carter whole in the manner set forth in "The Remedy" section of this Decision and Order.

(2) Reimburse all employees of Mechanical Handling Systems, Incorporated, in the full amount for all monies illegally exacted from them provided, however, that this Order shall not be construed as requiring reimbursement

for any such dues, non-membership dues, assessments, and work permit fees collected more than 6 months prior to [fol. 11] the date of service of the original charge against each Respondent herein.

(3) Post at their offices in Indianapolis, Indiana, at all locations where notices to members are customarily posted, copies of the notice hereto attached marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Ninth Region, shall, after being duly signed by a representative of the Respondents, Indianapolis and Central, Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO; Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, be posted by them immediately upon receipt thereof and conspicuously maintained by them for a period of sixty (60) consecutive days thereafter in all places where notice to members are customarily displayed at International, Council and Local headquarters. Reasonable steps shall be taken by the Respondents to insure that said notices are not altered, defaced, or covered by other material.

(4) Additional copies of the said notice hereto attached marked "Appendix A" shall be signed by a representative of each Respondent and forthwith returned to the Regional Director for the Ninth Region. These notices shall be posted, Mechanical Handling Systems, Incorporated, willing, in places where notices to the employees of Mechanical Handling Systems, Incorporated, are customarily posted.

(5) Notify, in writing, Mechanical Handling Systems, Incorporated, and Hafford B. Carter that the Respondents have withdrawn their objection to the hiring or continued employment of Carter by Mechanical Handling Systems, Incorporated; and also notify Hafford B. Carter, in writing, that henceforth they will not coerce him or restrain

In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "PURSUANT TO A DECISION AND ORDER" the words "PURSUANT TO A DECREE OF THE UNITED STATES COURT OF APPEALS. ENFORCING AN ORDER."

him by unlawfully denying to him a work referral slip or by otherwise interfering with the rights guaranteed to him by Section 7 of the Act.

[fol. 12] (6) Notify the Regional Director for the Ninth Region, in writing, within ten (10) days from the date of this Order, as to what steps the Respondents have taken to comply herewith.

II. The Respondents Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and the Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, in addition to the above shall:

(1) Jointly and severally make Elza Stevenson whole in the manner set forth in "The Remedy" section of this Decision and Order.

(2) Notify, in writing Mechanical Handling Systems, Incorporated, and Elza Stevenson that the Respondents have withdrawn their objection to the hiring or continued employment of Stevenson by Mechanical Handling Systems, Incorporated; and also notify Elza Stevenson, in writing, that henceforth they will not coerce him or restrain him by unlawfully denying to him a work referral slip or by otherwise interfering with the rights guaranteed to him by Section 7 of the Act.

(3) Notify the Regional Director for the Ninth Region, in writing within ten (10) days from the date of this Order, as to what steps the Respondents have taken to comply herewith.

Dated, Washington, D. C., Dec. 15, 1958.

Boyd Leedom, Chairman, Philip Ray Rodgers, Member, Joseph Alton Jenkins, Member, John H. Fanning, Member, National Labor Relations Board.

(Seal)

[fol. 13]

APPENDIX A TO DECISION AND ORDER

NOTICE

TO ALL MEMBERS OF UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; INDIANAPOLIS AND CENTRAL INDIANA DISTRICT COUNCIL, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; and, LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO,

AND

TO ALL EMPLOYEES OF AND APPLICANTS FOR EMPLOYMENT WITH MECHANICAL HANDLING SYSTEMS, INCORPORATED:

PURSUANT TO
A DECISION AND ORDER

of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify all of you that:

We Will Not, jointly or severally, enter into, perform, maintain, or otherwise give effect to the provisions of any agreement with Mechanical Handling Systems, Incorporated, or any other employer, which requires employees or prospective employees to obtain job referrals or permits, or which unlawfully conditions the hire of applicants for employment or retention of employees in employment by such employer or any other employer, upon clearance or approval by any of us, except as authorized by Section 8 (a) (3) of the Act.

We Will Not, jointly or severally, cause or attempt to cause Mechanical Handling Systems, Incorporated, or any other employer, to discriminate against employees in violation of Section 8 (a) (3) of the Act.

We Will Not, jointly or severally, in any like or related manner restrain or coerce employees or prospective

[fol. 14] employees of Mechanical Handling Systems, Incorporated, or any other employer, in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8 (a) (3) of the Act.

We, the United Brotherhood of Carpenters and Joiners of America, AFL-CIO; the Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO; and Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, jointly or severally will make Hafford B. Carter whole for any loss he may have suffered as a result of the discrimination practiced against him in his failure to obtain employment from Mechanical Handling Systems, Incorporated, by our refusal to issue a clearance or work permit to him.

We, the Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, jointly or severally will make Elza Stevenson whole for any loss he may have suffered as a result of the discrimination practiced against him in his failure to obtain employment from Mechanical Handling Systems, Incorporated, by our refusal to issue a clearance or work permit to him.

We Will notify, in writing, Mechanical Handling Systems, Incorporated, and Hafford B. Carter that we have withdrawn our objection to the hiring or continued employment of Hafford B. Carter, and that henceforth we will not coerce or restrain him by discriminatorily denying to him a clearance or a work referral slip or by otherwise interfering with his rights in Section 7 of the Act.

We, excepting herefrom the Respondent International,¹ will notify in writing, Mechanical Handling Systems, [fol. 15] Incorporated, and Elza Stevenson that we have

¹ Elza Stevenson did not file a charge against the International.

withdrawn our objection the hiring or continued employment of Elza Stevenson, and that henceforth we will not coerce or restrain him by discriminatorily denying to him a clearance or a work referral slip or by otherwise interfering with his rights in Section 7 of the Act.

We Will reimburse all employees of Mechanical Handling Systems, Incorporated for all dues, non-membership dues, assessments and work permit fees, which we have collected pursuant to our unlawful agreement with the aforementioned Company beginning with all such dues, non-membership dues, assessments, and work permit fees, collected six months prior to the filing to the initial charge against each Respondent.

Signed copies of this notice have been mailed to the National Labor Relations Board's Regional Director for the Ninth Region for posting by Mechanical Handling Systems, Incorporated, that company willing, in all locations where notice to employees of Mechanical Handling Systems, Incorporated, are customarily posted.

United Brotherhood of Carpenters
and Joiners of America, AFL-CIO

Dated By
(Representative) (Title)

Indianapolis and Central Indiana
District Council, United Brother-
hood of Carpenters and Joiners of
America, AFL-CIO

Dated By
(Representative) (Title)

Local 60, United Brotherhood of
Carpenters and Joiners of Amer-
ica, AFL-CIO

Dated By
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof and must not be altered, defaced, or covered by any other material.

[fol. 16]

BEFORE NATIONAL LABOR RELATIONS BOARD

INTERMEDIATE REPORT—January 30, 1958

Statement of the Case

Upon a charge filed on behalf of H. B. Carter with the 35th Subregion of Region 9 of the National Labor Relations Board (Board) on March 19, 1957, and thereafter amended July 31, 1957, and September 10, 1957, by First and Second Amended Charges duly filed, all docketed as 35-CB-203, and on a Charge likewise filed March 19, 1957, on behalf of Elza Stevenson and docketed 35-CB-203-1 and on a Charge filed with said Subregion on September 10, 1957, on behalf of Hafford B. Carter, amended October 7, 1957, by a First Amended Charge, docketed as 35-CB-220, all said charges alleging that (a) Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO and (b) Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO and (c) United Brotherhood of Carpenters and Joiners of America, AFL-CIO (collectively herein called the Respondents, and severally herein called Respondent Council, Respondent Local 60 and Respondent International), respectively, engaged in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 61 Stat. 136, hereinafter called the Act, the General Counsel of the National Labor Relations Board, on October 8, 1957, on behalf of the Board, by the Regional Director for the Ninth Region, on October 8, 1957, issued a Consolidated Complaint against the Respondents alleging that the Respondents had engaged in and were engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) and (2) and Section 2 (6) and (7) of the Act.

With respect to the unfair labor practices, the complaint alleged in substance that (1) on or about May 10, 1956, Respondent International and Mechanical Handling Systems, Incorporated, herein called Party to the Contract, or Mechanical Handling, entered into an illegal closed shop agreement, that (2) on or about January 9, 1957, the Respondent Council adopted and enforced the agreement

above mentioned, that (3) the Respondents Council and [fol. 17] Local 60 adopted the illegal contract aforesaid and have enforced said agreement as to Mechanical Handling, required Mechanical Handling to illegally hire only members of Respondents or others approved by them, that (4) on or about February 6, 1957, the Respondents, Council and Local 60, caused Mechanical Handling to refuse employment to certain individuals not approved for employment by the Respondents, and further that (5) pursuant to the terms of the illegal agreement above mentioned the Respondents have exacted dues from "unknown employees" of Mechanical Handling "in amounts unknown to the Regional Director."

The Respondents duly filed answers denying that they had engaged in any of the unfair labor practices alleged.

Copies of the Complaint, the Charges, and a Notice of Hearing were duly served on the Respondents, the Charging Parties and the Party to the Contract.

Pursuant to notice a hearing was held at Indianapolis, Indiana, November 25 and 26, 1957, before Louis Plost, the undersigned Trial Examiner.

All the parties were represented their representatives being herein referred to in the names of their principals. All the parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, to argue orally and to file briefs, proposed findings of fact and/or conclusions of law, with the undersigned.¹ The parties waived oral argument. A brief has been received from the General Counsel.

Upon the entire record and from his observation of the witnesses, the undersigned makes the following:

FINDINGS OF FACT

I. The business of the Company Party to the Contract

Mechanical Handling Systems, Incorporated, is a Michigan corporation engaged in the manufacture, design, and installation of conveyors and allied equipment and at all

¹ The time for filing briefs was extended by the Chief Trial Examiner to December 26.

[fol. 18] times material herein was engaged in such operations at the Ford Motor Company plant in the City of Indianapolis, Indiana.

During the calendar year 1956, which is a representative period, Mechanical Handling sold and shipped, from its plants located in Detroit, Michigan and Van Dyke, Michigan, directly to points located outside the State of Michigan, products of a value in excess of \$1,000,000.00.

It is conceded that now and at all times material to the issues herein, Mechanical Handling is and has been an employer engaged in "commerce" or in "operations affecting commerce" as those terms are defined in Section 2 (6) and (7) of the Act.

II. The Respondent Labor Organizations

The Respondents admit the allegation set forth in the Consolidated Complaint that each of them, are, and have been at all times material to the issues herein labor organizations as defined in Section 2 (5) of the Act.

III. The unfair labor practices

Sherman P. Roberts field superintendent of Mechanical Handling at its Indianapolis project, affected by this proceeding, testified that Mechanical Handling was party to an agreement with the Respondent International. This agreement is dated May 10, 1956, and provides:

We, the firm of Mechanical Handling Systems, Inc., Agree to recognize the jurisdiction claims of the United Brotherhood of Carpenters and Joiners of America, to work the hours, pay the wages and abide by the rules and regulations established or agreed upon by the United Brotherhood of Carpenters and Joiners of America of the locality in which any work of our company is being done, and employ members of the United Brotherhood of Carpenters and Joiners.

The agreement is attached hereto as "Appendix A", as a part of this report.

[fol. 19] There can be no doubt that the agreement between Mechanical Handling and the Respondent Interna-

tional attempts to set up an illegal closed shop and an equally illegal-preferential hiring system.²

Roberts further testified that Mechanical Handling is also party to a collective bargaining contract with Millwrights Local 1102 of Detroit, Michigan, affiliated with the Respondent International and that:

Well, whenever we go out of town, wherever we go we work under the same agreement, you see. We work under the same agreement out of town as we do in.

However according to Roberts the jurisdiction of Local 1102 does not extend into Indiana.

Field Superintendent Roberts further testified that on January 4, 1957, Mechanical Handling started a certain job at the Ford Motor Company's plant in Indianapolis, he being in charge; that "two or three days" later Ralph R. Smith business representative of the Respondent Council and the business agent for the Iron Workers Union called on him at the Ford job, this being the first time he had ever met Smith; that the two business agents conferred in his presence; that he did not participate in the conversation but "let them do their own talking, make their own decisions" because:

Mr. Smith and the business agent for the Steelworkers was deciding who was going to have the jurisdiction of putting the trough sections in the floor.

That during Smith's initial visit he told Smith "we wanted millwrights" and "we got four or five millwrights the next day."

According to Roberts during this first conversation he agreed with Smith on a procedure to be followed thereafter by which millwrights and carpenters would be hired through Respondent Local 60, the arrangement being:

[fol. 20] Well, the men of Local 60, Mr. Bereman, or whoever issues this referral card, then it is addressed to Roberts or whoever it is on the job of Mechanical Handling Systems.

² J. J. White, Inc., 111 NLRB 1126.

That on the Ford job no carpenters or millwrights were hired who were not referred to him by the Respondent Local 60, a referral slip being required of every applicant before he was hired.

Roberts testified that at no time during his first conversation with Smith or in any subsequent conversation was the matter of Mechanical Handling's agreement with the Respondent International discussed.

Ralph R. Smith testified that during all times material herein he was president of Respondent Council as well as its business agent and further that he was and is the only person who "can make an agreement officially" for Respondent Council and Respondent Local 60.

Respondent District Council is "composed of regularly elected delegates" from various local unions "in Indianapolis and vicinity."

Respondent Local 60 is a conventional craft union affiliated with Respondent International and has delegate representation in Respondent Council.

It is clear that Smith in his capacity of representative of Respondent Council entered into contracts through the Council for and in behalf of Respondent Local 60.

Smith further testified:

Q. (By Mr. McGowan) Let me ask you this Mr. Smith: In connection with the relationship between any particular contractor and the District Council, where you have an agreement in effect, is your relationship controlled by your bylaws?

A. Our relationship is controlled by the agreement we have with the Contractors Association.

Logically this means that the relationship of Respondent Local 60 and employers contracting through Respondent Council is also controlled by the same agreement.

[fol. 21] Business Representative Smith corroborated Roberts' testimony that the agreement existing between Mechanical Handling and Respondent Local was not discussed between them, however, in an affidavit Smith made for the General Counsel's field examiner Smith averred that in his first meeting with Roberts "he (Roberts) advised me

that his company had an International Agreement with our Union and that he would abide by its terms."

This language does not, in the opinion of the undersigned, spell out a discussion, or adoption of an existing contract by the parties.

With respect to his first meeting with Roberts, the Business Representative testified:

At that time I gave him a copy of the contract that we had with the General Contractors Association, which we asked that he work under.

The record is clear that the document given to Roberts at the time was a copy of "Joint Agreement by and between Building Contractors Association and Indianapolis and Central Indiana District Council."³

According to Smith:

I gave Mr. Roberts the agreement, and I said, "We live by this 100 per cent. What is in it we will do. That's our agreement with you."

Smith testified that although he and Roberts acting for their principals signed no written agreement they entered into a binding verbal contract which carried union shop provisions, the oral contract being Mechanical Handling's agreement to abide by the terms of the Respondent's (Council and Local 60) agreement with the Building Contractors Association.

Smith testified that at the time the agreement was entered into Mechanical Handling had hired no employees for the Ford job in Indianapolis and had only one employee (other than Roberts) at Indianapolis, a foreman brought [fol. 22] from Detroit, who was a member of a Detroit Michigan local.

Smith testified:

The Witness: I believe that they had one man from 1102 in Detroit, was on the job.

Trial Examiner: Just one. But anyone from your jurisdiction here on the job?

³ Respondent's Exhibit No. 1.

The Witness: No. He hadn't hired anybody.

Trial Examiner: He hadn't hired anyone. And at that time when he had not hired and merely had here a man from Detroit who was a member of the craft, he made an agreement with you to abide by the local contract?

The Witness: Yes.

The record discloses that not only did Mechanical Handling agree to abide by the Respondents' (Council and Local 60) contract with the Indianapolis Building Contractors Association but it did adhere to the closed shop conditions imposed on it by the Respondent Council and Respondent Local 60.

Hafford B. Carter corroborated by Elza Stevenson testified he had been employed for a two and one half year period by Mechanical Handling on a job at Louisville, Kentucky; that on advice of his foreman he came to Indianapolis, together with Elza Stevenson, to seek employment from Roberts on the Ford job there; that late in January 1957, he and Stevenson called on Roberts at the Ford job and asked Roberts for employment. Carter testified:

As near as I can remember, sir, he (Roberts) said that he would like to have me especially as I had worked for him before, on the job, it was just beginning, but he felt like that I would have an awful lot of trouble getting through the local and getting a clearance card to go to work; and for me to go back down to the local and wait until someone came in to see as to whether or not I could get clearance.

[fol. 23] According to Carter, he was also told by Roberts that the job had not yet started because of lack of materials; that he and Stevenson then went to the District Council's office, where they asked for referrals to the Ford job but after the person they talked to telephoned Roberts, (Carter listening on a connecting phone) and Roberts stating he would have work for them the following week, they left without being given referrals and returned to Louisville; that on February 5, 1957, Carter telephoned Roberts and:

He told me to come over the next day and get Mr. Stevenson, that he had plenty of work and would definitely like to have us go to work at that time.

That on the next day he and Stevenson called on Roberts at the job talked to Roberts and Ernest A. Wallace, the general foreman under Roberts and that:

He (Roberts) and Mr. Wallace said that we were still going to have trouble trying to get through the union, and didn't know as to whether or not we would, but he was going to give it a try. And Mr. Wallace recommended that he give us a letter of recommendation, and Mr. Roberts said, "Well, that will be all right. Go ahead and write it up and I will sign it."

The following letter was given Carter:

Dear Mr. R. R. Smith,

I would like to request that these two men, Elza W. Stevenson and H. B. Carter be given a working permit for this job; these men have worked for Mechanical Handling Systems on several occasions. They are both good conveyor men. I would appreciate your cooperation in this matter.

Yours very truly,

(s) S. P. Roberts

Mr. S. P. Roberts

Gen. Field Supt.

Mechanical Handling Systems

[fol. 24] Carter and Stevenson then went to the office of Respondent Council, showed the letter to Smith, and asked him for referrals to the Ford Job. Smith refused them referrals until he had "investigated"; told them to return the next day which they did, Smith then refused to refer them to the job for work.

After Smith's refusal the two men called at the office of the Respondent International and were there told they could not get referrals for work until cleared by the Respondent Local 60.

Stevenson who corroborated Carter testified that after being refused referrals to the Ford job he so informed Foreman Wallace. Stevenson testified:

Q. And will you tell us about that conversation?

A. Well, I told him what had happened, that we hadn't been able to get a permit or wasn't able to go to work for him the next morning—that morning and all. And he asked if we would try to come back and we told him that we might the following week. He said if we come back to get hold of another fellow down there, Tommy Craig, and get him to come back and have him to clear in at the same time that we were supposed to clear in.

Q. And do you recall whether or not he said anything about your being employed?

A. Yes. We had a job if we come back.

Superintendent Roberts testified that he told Carter and Stevenson "that they would first have to clear through the Carpenter's union" and that he issued the letter above referred to.

Wallace testified with respect to the letter:

What I recollect was—I don't know who specifically asked for it. I didn't pay too much attention, but I do know, in fact, I dictated the letter.

[fol. 25]

CONCLUSION

On the above recited facts the complaint alleges violation of Section 8 (b) (1) (A) and (2) of the Act by the three Respondents, jointly and severally.

This section reads:

(b) It shall be an unfair labor practice for a labor organization or its agents—

(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: • • •

(2) to cause or attempt to cause an employer to discriminate against an employee in violation of Sub-section (a) (3) • • •

The undersigned has found that the agreement entered into May 10, 1956, between Mechanical Handling and Respondent International is illegal, however the undersigned is not persuaded that except by the most irresponsible inference can this record be thought to show any connection between this illegal agreement and the agreement later made by Mechanical Handling and Respondents Council and Local 60.

The mere existence of an illegal contract between two parties does not warrant findings and recommendations on it merely because one of the parties to it has executed a different agreement with different parties also alleged to be illegal and the basis of an unfair labor practice complaint. The undersigned is not persuaded that the theory of the overt act may be scrapped in order to extend the scope of an unfair labor practice charge.

The undersigned will therefore recommend that the complaint as to Respondent International, United Brotherhood of Carpenters and Joiners of America, AFL-CIO (Case No. 35-CB-220) be dismissed.

The theory of the General Counsel is that the unfair labor practice herein is grounded upon the illegal contract between Mechanical Handling and Respondent International adopted by Respondents Council and Local 60. In rejecting this theory the undersigned does not consider [fol. 26] that the case falls because it cannot be sustained as alleged, for the reason that all acts and conduct of the Respondents Council and Local 60 were fully litigated in the hearing.

The undersigned will base his findings on such facts as revealed in the litigation.

Upon the entire record the undersigned finds that at the time of their first meeting in January 1957, before Mechanical Handling had hired any employees for its Ford job at Indianapolis, Smith acting for the Respondent Council and Local 60 jointly and Roberts acting for Mechanical Handling entered into an oral agreement covering the employment conditions of certain classes of labor to be hired by Mechanical Handling for its Ford job.

It is clear, and the undersigned finds, that the agreement was the joint and several agreement of both the Respondents aforesaid.

It is also clear that in implementing the agreement Mechanical Handling hired through both Council and Local 60 and that both Council and Local 60 referred and cleared applicants to Mechanical Handling for the Ford job.

By demanding of and entering into this agreement with Mechanical Handling at a time when Mechanical Handling had no employees on the job, and binding the employment rights of prospective applicants the Respondent Council and Respondent Local 60 engaged in conduct violative of Section 8 (b) (2) of the Act.⁴

At the time the agreement was made it is clear that the Respondents, Council and Local 60, knew as a practical matter if they refused to issue clearance or a referral to an applicant he would not be hired by Mechanical Handling, thus they arranged to deprive such applicants of the right of employment. At the time they refused referrals to Carter and Stevenson, after Mechanical Handling had indicated it would employ them the Respondents, Council and Local 60, clearly violated Section 8 (b) (1) (A) and (2) of the Act.⁵

[fol. 27] The complaint alleges:

Now and at all times since on or about January 9, 1957, pursuant to said contractual provisions and the illegal hiring practice above alleged, the Respondents have regularly exacted and collected from all of the employees of Mechanical Handling Systems, Incorporated and of other employers within said territorial jurisdiction, whose names are unknown to the Regional Director, dues, non-membership dues, assessments, and work-permit fees, the exact amounts of which said exactions and collections are unknown to the Regional Director.

The General Counsel argues in his brief that such collections be ordered refunded and "any specific person who

⁴ N. L. R. B. v. Local 218, 218 F. 2d 226 (C. A. 10); N. L. R. B. v. Philadelphia Iron Works, 211 F. 2d 937 (C. A. 3); Radio Officers Union v. N. L. R. B., 37 U. S. 17.

⁵ Footnote No. 2, J. J. White, Inc., 111 NLRB 1126.

has been discriminated against pursuant to such practice" be made whole.

Again, other than the bare allegation in the complaint there is nothing in the record in the way of proof or even statement with respect to the unfair labor practice so charged, no named individuals suffering thereby, no named individuals who enforced the alleged unlawful provisions for the Respondents or took part in maintaining the alleged closed shop provision by "check off" or otherwise on behalf of the Respondents by Mechanical Handling.

The undersigned sees no merit in an allegation not founded on a charge, not in any way proven but treated merely as a shot gun blast aimed in general direction of quarry hoping that game will be brought down.*

Concluding Findings

The undersigned finds that by entering into and maintaining the oral illegal agreement, hereinabove referred to and by generally issuing and refusing to issue permits to work under the said agreement and by refusing to issue a referral to the Mechanical Handling job at the Ford job in Indianapolis to Carter and Stevenson, the Respond- [fol. 28] ents (Council and Local 60) have engaged in and are engaging in conduct violative of the Act, more particularly Section 8 (b) (1) (A) and (2) thereof.

IV. The effect of the unfair labor practice upon commerce

The activities of the Respondents, Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO and Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, in connection with the operations of Mechanical Handling Systems, Incorporated, Party to the Contract, occurring in connection with operations described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several

* In passing the undersigned points out that had a charge been filed, and a proper complaint issued Mechanical Handling might well have been a proper party to the unfair labor practices herein.

States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The remedy

Since it has been found that the Respondents (Council and Local 60) have engaged in unfair labor practices, it will be recommended that each of them cease and desist therefrom and take certain affirmative action, designed to effectuate the policies of the Act.

Since it has been found that the Respondents (Council and Local 60) have maintained and enforced an oral agreement understanding and practice which contains and involves terms and conditions of employment and practices which are violative of Section 8 (b) (1) (A) and (2) of the Act, it will be recommended that they cease and desist from giving effect to the unlawful provisions of said oral agreement and understanding. Since it has been found that on February 6, 1957, pursuant to said oral contractual provisions and illegal hiring practices, the Respondent Council and the Respondent Local 60 by and through their agent Ralph R. Smith, attempted to cause and caused Mechanical Handling to discriminatorily refuse employment to Hafford B. Carter and Elza W. Stevenson because said labor organizations refused clearance for employment to Hafford Carter and Stevenson thereby causing said Carter and [fol. 29] Stevenson to lose employment and incur losses it will therefore be recommended that the Respondents aforesaid make them whole for any loss of pay they may have suffered as a result of the discrimination against them by payment to each of them of a sum of money equal to that which each would normally have earned as wages but for the discrimination, less his net earnings during such period, the back pay to be computed in the manner prescribed by the Board in F. W. Woolworth Company, 90 NLRB 289.

Upon the basis of the foregoing findings of fact and upon the record as a whole, the undersigned makes the following:

Conclusions of Law

1. Mechanical Handling Systems, Incorporated, is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

2. Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO and Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, are labor organizations within the meaning of the Act.

3. By enforcing and maintaining an oral agreement and/or understanding and practice with Mechanical Handling Systems, Incorporated which contains and involves terms and conditions of employment requiring clearance or referral of certain applicants of employment by the labor organizations aforesaid before their employment by Mechanical Handling Systems, Incorporated the said Respondent labor organizations have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (b) (2) of the Act.

4. By interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, the said Respondents have engaged in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[fol. 30] The Respondents have not engaged in any unfair labor practices alleged in the complaint other than those specifically found herein.

The Respondent named in case No. 35-CB-220, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, has not engaged in any of the unfair labor practices alleged in the complaint.

RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law, and upon the entire record in the case, the undersigned recommends that the Respondents, Council and Local 60,

1. Cease and desist from:

(a) Maintaining and enforcing current agreements, understandings and practices with Mechanical Handling

Systems, Incorporated which contain and involve terms and conditions of employment requiring illegal referral of applicants for employment by Mechanical Handling by the Respondents aforesaid or maintaining or entering into any renewal thereof, or any superseding agreements, understandings and practices containing union-security provisions, except as authorized by the proviso to Section 8 (a) (3) of the Act;

(b) Requiring employees or applicants for employment to obtain clearance or job referrals from the Respondents, Council and/or Local 60, as a condition of employment, except under a nondiscriminatory arrangement permitted by Section 8 (a) (3) of the Act;

(c) In any like or related manner interfering with restraining or coercing employees or applicants for employment, in the exercise of their right to self-organization, to form, join, or assist labor organizations to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, or to refrain therefrom, except to the extent that such rights may be affected by an agreement requiring membership in a labor [fol. 31] organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

2. Take the following affirmative action to effectuate the policies of the Act:

(1) Jointly and severally make whole Hafford B. Carter and Elza Stevenson for any loss they may have suffered for the discrimination found to have been practiced against them as set forth in Section "The Remedy."

(2) Cease and desist from any attempt to cause or attempt to cause Mechanical Handling to engage in the practice of requiring employees to obtain clearance or job referrals as a condition of employment, except under a nondiscriminatory arrangement permitted by Section 8 (a) (3) of the Act;

(3) Post at their main offices and union halls at Indianapolis, Indiana, copies of the notice attached hereto and

marked Appendix "B" and "C" by and for Respondent Council and "C" by and for Respondent Local 60. Copies of said notices, to be furnished by the Regional Director for the Ninth Region, shall, after being duly signed by the proper representatives, of the proper Respondent, be posted by it immediately upon the receipt thereof, and maintained by it for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the said Respondents to insure that such notices are not altered, defaced, or covered by other materials.

In order that the members of Local 60, any nonmembers seeking employment on jobs where such members are employed as well as employers, may be fully assured that Respondents Local 60 and District Council do not intend to engage in the conduct herein found to be illegal, obviously the posting of a notice on a Union hall bulletin board is not sufficient, therefore the undersigned will recommend wider publication. Under all the circumstances in this case the undersigned believes it proper to recommend, and does recommend, that any notice ordered posted by the Respondents be also ordered simultaneously published by each of them in a daily newspaper of general circulation in Indianapolis, Indiana. The selection of such a paper should be confined to a daily newspaper of general circulation and not made from papers serving specialized groups of readers such as legal news publications, shoppers news, trade papers, labor publications or foreign language papers.

(4) It is further recommended that the Respondents Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO mail to the Regional Director for the Ninth Region signed copies of the notices attached to the Intermediate Report as "Appendix B" and "C" for posting, Mechanical Handling Systems, Incorporated willing, at its Ford Motor Co., job in Indianapolis, in places where notices to employees of Mechanical Handling are customarily posted;

(5) Notify the Regional Director for the Ninth Region in writing within twenty (20) days from the date of this order what steps it has taken to comply herewith.

It is recommended that the complaint be dismissed as to United Brotherhood of Carpenters and Joiners of America, AFL-CIO. (Case No. 35-CB-220)

It is further recommended that the complaint be dismissed insofar as it alleges any unfair labor practice not specifically found in this report.

It is further recommended that unless each of the Respondents (Council and Local 60) within twenty (20) days from the receipt of this Intermediate Report shall notify the said Regional Director in writing that they will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the Respondents to take the aforesaid action.

Dated at Washington, D. C., this 30th day of January 1958.

(s) Louis Plost
Trial Examiner

[fol. 33]

APPENDIX A TO INTERMEDIATE REPORT

International Agreement

Memorandum of Agreement between the firm of Mechanical Handling Systems, Inc., 4600 Nancy Ave., Detroit 12, Michigan, and the United Brotherhood of Carpenters and Joiners of America.

We, the firm of Mechanical Handling Systems, Inc., Agree to recognize the jurisdiction claims of the United Brotherhood of Carpenters and Joiners of America, to work the hours, pay the wages and abide by the rules and regulations established or agreed upon by the United Brotherhood of Carpenters and Joiners of America of the locality in which any work of our company is being done, and employ members of the United Brotherhood of Carpenters and Joiners.

No change to be made in the hours and wages in any locality, and no conditions imposed other than are enforced on all Local firms.

In consideration of the foregoing, the United Brotherhood of Carpenters and Joiners of America agree that no stoppage of work or any strike of its members, either collectively or individually, shall be entered into pending any dispute being investigated and all peaceable means taken to bring about a settlement.

Mechanical Handling Systems, Inc.
(s) Ralph Gray
Asst. Director of Manufacturing

For the United Brotherhood of Carpenters and Joiners of America

(s) M. A. Hutcheson
General President

Dated 10 May 1956.

[fol. 34]

APPENDIX B TO INTERMEDIATE REPORT

NOTICE TO ALL EMPLOYEES

PURSUANT TO
THE RECOMMENDATIONS OF A TRIAL EXAMINER
of the National Labor Relations Board, and in order to effectuate the policies of the Labor Management Relations Act, we hereby notify our members and whoever it may concern that:

We Will Not enter into, maintain or enforce any contract, agreement, understanding, or practice, with Mechanical Handling Systems, Incorporated which requires employees or prospective employees to obtain job referrals or permits from us as a condition of obtaining employment, except to the extent permitted under the proviso of Section 8 (a) (3) of the Act.

We Will Not cause or attempt to cause Mechanical Handling Systems, Incorporated or any other employer,

to discriminate against employees in violation of Section 8 (a) (3) of the Act.

We Will Not in any like or related manner restrain or coerce employees or prospective employees of Mechanical Handling Systems, Incorporated or any other employer, in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8 (a) (3) of the Act.

We Will notify, in writing, Mechanical Handling Systems, Incorporated employer, Hafford B. Carter and Elza Stevenson applicants for employment, that we have no objection to their employment by Mechanical Handling Systems, Incorporated.

We, will make whole the above-named employees for any losses suffered by them as a result of the discrimination [fol. 35] practiced against them in connection with their applications for employment by Mechanical Handling Systems, Incorporated caused by our refusal to issue clearance or work permits to said Carter and Stevenson.

Indianapolis and Central Indiana
District Council, United Brotherhood
of Carpenters and Joiners
of America, AFL-CIO

(Labor Organization)

Dated By
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

APPENDIX C TO INTERMEDIATE REPORT

NOTICE TO ALL EMPLOYEES

PURSUANT TO
THE RECOMMENDATIONS OF A TRIAL EXAMINER
of the National Labor Relations Board, and in order to
effectuate the policies of the Labor Management Relations
Act, we hereby notify our members and whoever it may
concern that:

We Will Not cause or attempt to cause Mechanical
Handling Systems, Incorporated to require employees
or applicants for employment to obtain job referrals
or permits from us, as a condition of employment,
except under a nondiscriminatory arrangement per-
mitted by Section 8 (a) (3) of the Act.

We Will Not enter into, maintain or enforce any con-
tract, agreement, understanding, or practice, with Me-
chanical Handling Systems, Incorporated, or any other
employer, which requires employees or prospective em-
ployees to obtain job referrals or permits from us as
a condition of obtaining employment except to the ex-
[fol. 36] tent permitted under the proviso of Section
8 (a) (3) of the Act.

We Will make whole the following named employees
of Mechanical Handling Systems, Incorporated for any
losses suffered by them as a result of the discrimination
practiced against them in their failure to obtain em-
ployment from Mechanical Handling Systems, Incorpo-
rated caused by our refusal to issue clearance or work
permits to them.

Hafford B. Carter
Elza Stevenson

We Will Not in any other manner interfere with, re-
strain or coerce employees of Mechanical Handling
Systems, Incorporated or employees of any employer
in the exercise of the rights guaranteed in Section 7
of the Act, except to the extent that such rights may

~~be affected by an agreement requiring membership in~~
a labor organization as a condition of employment, as
 authorized by Section 8 (a) (3) of the Act.

Local 60, United Brotherhood of
 Carpenters and Joiners of Amer-
 ica, AFL-CIO

(Labor Organization)

Dated _____ By _____
 (Representative) (Title)

This notice must remain posted for 60 days from the
 date hereof, and must not be altered, defaced, or covered
 by any other material.

[fol. 37]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

NINTH REGION

[Title omitted]

Transcript of Testimony

Room 266, Post Office Building,
 Indianapolis, Indiana

Monday, November 25, 1957

Pursuant to notice, the above-entitled matter came on
 for hearing at 1:30 p.m.

[fol. 38] Before:

Louis Plost, Esq., Trial Examiner.

APPEARANCES:

Francis X. Ward, Esq., 222 East Michigan Street,
 Indianapolis, Indiana, for United Brotherhood of
 Carpenters & Joiners of America; and

William A. McGowan, Esq., 222 East Michigan Street,
 Indianapolis, Indiana, for Indianapolis & Central
 Indiana District Council and Local Union No. 60.

A. D. Ruegsegger, Esq., of Dyer, Meek, Ruegsegger & Bullard, 2100 Dime Building, Detroit 26, Michigan, for Mechanical Handling Systems, Inc.

John H. Rogers, Esq., 319 North Pennsylvania Street, Indianapolis, Indiana, appearing for the General Counsel.

George J. Long, Esq., 515 Marion E. Taylor Building, Louisville, Kentucky, appearing for Hafford Carter and Elza Stevenson, Individuals.

Proceedings

(Thereupon, the documents previously marked General Counsel's Exhibits Nos. 1-A through 1-S, 1-U through 1-V for identification were received in evidence.)

(Thereupon, the document previously marked General Counsel's Exhibit No. 2 for identification was received in evidence.)

Trial Examiner: I will ask the counsel for the party to the contract if it is conceded by the Mechanical Handling Systems, Incorporated, that the Company is in commerce within the meaning of the Act.

Mr. Ruegsegger: It is so conceded.

[fol. 39] SHERMAN P. ROBERTS, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. By whom are you employed?

A. Mechanical Handling Systems.

Q. In what position are you employed?

A. I am a field superintendent.

Q. What are your duties as field superintendent?

A. To check the jobs, supervise the direction of the jobs in different territories.

By Mr. Rogers:

Q. Mr. Roberts, will you state for the record what your job was the month of January, 1957?

A. 1957? I was out to the Ford plant in Indianapolis as a field superintendent.

Q. I see. And will you state for the record, if you recall, when that job at the Ford Motor Company started?

A. On the 4th day of January.

Q. Of what year?

A. Fifty-seven.

Q. Who is Ralph Smith?

A. Business agent for the District Council, sitting back here.

Q. And when you refer to the District Council, what do you mean?

A. Well, I have always went, when we come into town we go to a local to get our men, and Mr. Smith is the man I contacted.

Q. Will you state whether or not you have reference to a labor organization when you—

A. A labor organization; that's right.

Q. What labor organization?

A. The A. F. of L.

Q. Can you tell us whether or not that labor organization [fol. 40] to which you have reference has any connection with the Carpenters?

A. It does.

Q. What is that connection, if you know?

A. The Carpenters and the Joiners.

By Mr. Rogers:

Q. Who is Mr. Bereman?

A. Mr. Bereman is right over there.

Q. Do you know what—

A. He's with Local 60, Carpenters and Joiners.

Q. Now, state for the record whether or not prior to the start of the job at the Ford plant by Mechanical Handling Systems you had an occasion to talk to Mr. Smith?

A. No, sir.

Q. Will you tell us whether or not immediately following the start of that job you had occasion to talk to him?

A. About two days, two to three days I would say. Wouldn't you, Ralph?

Q. Where did you have occasion to talk to Mr. Smith?

A. In the Ford Motor plant out there.

Trial Examiner: Keep your voice up, please Mr. Roberts.

By Mr. Rogers:

Q. Was anyone else present at that time?

A. Well, I had a man by the name of Verkler out there at that time; and Smith, and the business agent for the Iron Workers, and Larry Verkler.

Trial Examiner: And you don't know the name of the business agent for the Iron Workers?

The Witness: What is the—

Trial Examiner: Never mind. It isn't necessary.

By Mr. Rogers:

Q. Will you state for the record what, if anything, was said during that conversation?

A. The only thing we had any reference to at that time, starting that job, we was deciding who was going to put the troughs in the floor, see.

[fol. 41] Q. Will you state whether or not you recall anything else that was said at that time?

A. No, sir.

Trial Examiner: Who was deciding who was to do this work?

The Witness: Mr. Smith and the business agent for the Steelworkers was deciding who was going to have the jurisdiction of putting the trough sections in the floor.

Trial Examiner: Were you present while the—

The Witness: No. I let them do their own talking, make their own decisions.

Trial Examiner: All right.

By Mr. Rogers:

Q. Can you tell us whether or not the subject of obtaining carpenters for your job came up at that time?

A. Yes, it did. The millwrights, rather. We wanted millwrights to put our machinery up.

Q. Will you tell us what was said about that subject?

A. Well, at that time we wanted to get a composite crew in there and put so many millwrights and so many iron workers to go along and put that job up.

Q. I see. And what, if any, arrangement did you make for getting your millwrights?

A. Well, at that time we got four or five millwrights the next day, and that was all we put on until we started overhead conveyers.

Q. Will you state whether or not you make any arrangement for obtaining millwrights?

A. Oh, yes.

Q. What were those arrangements?

A. Well, we went to the Local to get men to put our machinery parts on our conveyers.

Q. When you refer to the local, what do you mean?

A. The business local, Local 60.

Q. Now—

A. Mr. Smith, he was on East Street at the time when I went down to see him.

.

[fol. 42] By Mr. Rogers:

Q. Will you tell us whether or not Mechanical Handling Systems, Incorporated, has any labor agreement with the United Brotherhood of Carpenters?

A. We are affiliated with the United Brotherhood of Carpenters & Joiners, and the Iron Workers.

Q. Do you know whether or not that company has any contracts with the Carpenters?

A. We do in Detroit, yes, sir.

Q. Will you tell us whether or not at the time of your conversation with Mr. Smith the subject of that contract came up?

A. No, sir, it did not.

Trial Examiner: Now, you say at that time you had a contract with the—your company had a contract with the Carpenters in Detroit?

The Witness: The millwrights. It goes under the millwright local in Detroit.

Trial Examiner: In Detroit. And what did that cover? What area did that cover?

The Witness: Well, whenever we go out of town, wherever we go we work under the same agreement, you see. We work under the same agreement out of town as we do in.

Trial Examiner: Who was your contract with in Detroit?

The Witness: In Detroit?

Trial Examiner: Yes.

The Witness: With the millwrights, Local 1102.

Trial Examiner: Local 1102's jurisdiction extends where, if you know?

The Witness: I do not know.

Trial Examiner: Does it extend into Indiana?

The Witness: No, it doesn't.

Q. Who is Hafford Carter?

A. He's a man that used to work for me back in '45 and '46.

Q. Now, directing your attention to the latter part of [fol. 43] January, 1957, will you tell us whether or not you had occasion to be contacted by Stevenson or Carter with respect to possible employment?

A. They did. They came up to see me. I don't know what date it was.

Q. Where were you at that time?

A. I was still at the Ford Indianapolis plant.

Q. Do you recall the date at the present time, or approximate date?

A. Well, it was the second time they came there was February 6th, and before that it was about, I would say about two weeks before that.

Q. Now, at the time you had this—will you state whether or not at that time you had any conversation with these two men?

A. Well, they wanted—

Q. Will you just state whether or not you had a conversation?

A. Yes, I did, with Mr. Carter.

Q. Who else was present, if anyone?

A. Well, Ernie Wallace was present.

Q. Just so the record is clear now, will you tell us everyone who was present at that time, including yourself?

A. Well, Ernie Wallace and Mr. Carter and Mr. Stevenson.

• Trial Examiner: And yourself?

The Witness: And myself, yes.

By Mr. Rogers:

Q. Will you state for the record what the conversation was at that time?

A. Well, at that time they wanted a job, which I told them I didn't have any material in there to put them on at the time.

• • • • •
By Mr. Rogers:

Q. Mr. Roberts, will you state for the record how long you were at the Ford plant as superintendent of that job?

A. I was there from January 4th until the second day of July, 1957.

Q. Now, will you state for the record whether or not [fol. 44] you had a practice of any sort with respect to hiring employees?

A. Well, we hired them from—we got our men from the labor unions, from the local.

Trial Examiner: By "the local," you mean Local 60?

The Witness: That's right, Carpenters and Joiners.

By Mr. Rogers:

Q. And will you tell us whether or not you know what a referral card is?

A. Yes, sir.

Q. What is a referral card?

A. It is a small card they put the man's name on and Social Security number on, and send them out to the job to us.

Q. When you talk about "they," to whom do you have reference?

A. Well, the men of Local 60, Mr. Bereman, or whoever issues this referral card, then it is addressed to Roberts, or whoever it is on the job of Mechanical Handling Systems.

Q. Will you tell us whether or not during the time that you were job superintendent at the Ford plant project, you hired anyone who was not referred by the union?

A. No, sir.

Q. Now, was this or was this not the practice that was set up at the time you talked to Smith?

A. That's right.

Mr. McGowan: I object to that, Mr. Examiner.

Trial Examiner: Overruled. The answer is in.

By Mr. Rogers:

Q. Now, can you tell us whether or not at any time during the time you were superintendent of this job you hired any employees who were members of Local 60?

A. Yes.

Q. Can you tell us whether or not you at any time had occasion to contact Mr. Bereman?

A. Yes, sir.

Q. And on those occasions will you state for the record why you contacted Mr. Bereman?

A. Well, if a man on the job, say Mr. Bereman had men or Local 60 had, I mean, I tried to get the men to man my job.

[fol. 45] Q. Now, during the period of time you were superintendent of this job at the Ford Motor plant, will you tell us whether or not you were ever approached by any individuals seeking employment who had not been referred by the union?

A. Oh, I might have been. I don't—Maybe I didn't, didn't have any work for him or anything, but probably several men come out there every day and were looking for work.

Q. What, if anything, did you do with respect to these men?

A. I didn't do anything with them.

Trial Examiner: What do you mean by that, you "didn't do anything with them"?

The Witness: Well, I didn't hire any of them. I didn't need them.

By Mr. Rogers:

Q. Will you tell us whether or not at any time you have ever had occasion to direct a person seeking employment, any place?

A. Pardon?

Q. Have you ever had occasion to direct a person seeking employment to any place in particular?

A. Well, no, not to my—only men come out sometimes and wanted to ask me about a job or something like that.

Q. Well, specifically, will you state whether or not you have ever had occasion to direct a man to Local 60?

A. Yes, sir.

Q. For what purpose?

A. Well, a man—Mr. Carter is—he came to me, and Mr. Stevenson, and he wanted a letter to go—

Q. No. I just want to know what the purpose was for your directing anybody to either Local 60 or the District Council.

A. Oh, I didn't direct them any place. They come out and wanted a letter to go to the local. I didn't direct them no place.

Q. Directing your attention now to February 6, 1957,

will you state whether or not you had an occasion to talk to Hafford Carter or Elza Stevenson on that day?

[fol. 46] A. I did, sir.

Cross examination.

Did I understand you to say substantially to the effect that in Indianapolis, as well as other areas where you worked, that you contact local-union organizations to get your help?

A. Yes.

Q. Now, these referral slips that you referred to, those are slips, on this particular job here, those were slips which were from either the District Council or the local union?

A. That's right.

Q. In other words, if you needed men to staff your job then you went to the most practical source you knew and asked for men either by name or by number?

A. Well, I didn't ask for them by name. I didn't know the men.

Q. Just so many men needed?

A. That's right.

Q. Now, if people came on the job after you had made a request, did you have any other way to identify them except by referral slip?

A. No.

Q. And if they had no referral slip would you have anything to indicate their qualifications or probable qualifications to fill the jobs?

A. I don't know any man. I don't know what a man is when he comes out on the job.

Trial Examiner: Even if he has a referral slip you don't know whether he is qualified or not?

The Witness: That's right.

By Mr. McGowan:

Q. But you accept that referral slip as a recommendation of skill and craftsmanship?

A. Correct.

Q. You referred also to a letter which you gave to Mr. Carter or Mr. Stevenson, or both?

[fol. 47] A. That's right.

Redirect examination.

By Mr. Rogers:

Q. Mr. Roberts, will you state for the record whether you required a referral slip before you hired a man?

A. Well, as I—If a man comes out there, yes, I—

Q. And will you state for the record on what date you gave Mr. Carter and Mr. Stevenson this letter that's been mentioned?

A. February 6, 1957.

Q. And on that date did you have an occasion to have a conversation with those two men?

A. Not too much, no.

Q. Did you have an occasion to have any sort of a conversation?

A. No. They came in there and I was busy and I had the clerk type it up and I read it, and I signed it and gave it to them.

Q. Will you state for the record who was present at that time?

A. Ernie Wallace.

Q. That is, besides those men and yourself?

A. That's right.

(General Counsel's Exhibit No. 4 for identification was received in evidence.)

By Mr. Rogers:

Q. Mr. Roberts, I will call your attention to page 2 of General Counsel's Exhibit Number 4, at which point in

the third paragraph there appears this statement: "I also told both of them that they would have to first clear through the Carpenters' union."

A. That's right.

Q. Now, will you state for the record if that was a true and correct statement at the time you made it?

A. It was.

[Vol. 48] (The document previously marked General Counsel's Exhibit No. 5 for identification was received in evidence.)

RALPH R. SMITH, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. By whom are you employed?

A. The Indianapolis and Central Indiana District Council of Carpenters.

Q. What position do you hold?

A. I am the business representative.

By Mr. Rogers:

Q. Mr. Smith, are you an officer of the union?

A. No, sir.

Q. How did you obtain your job as business agent?

A. I was elected.

Q. By whom?

A. By the membership.

Q. Who is Sherman P. Roberts?

A. To my knowledge he is the superintendent for Mechanical Handling on the Ford Motor Company job.

Q. Now, directing your attention to the latter part of January, 1957; will you tell us whether or not you had

occasion to talk to Mr. Roberts with regard to the project at the Ford Motor Company plant?

A. Yes, I did; on several occasions.

Q. When was the first such occasion?

A. I don't recall the date. It was early in the year, January, February. I am not certain.

Q. Where did that conversation take place?

A. At the Ford Motor plant.

[fol. 49] Q. Do you recall at the present time whether or not anyone else was present?

A. Not to my knowledge. I talked with Mr. Roberts—I don't recall anyone else at the first meeting.

Q. Will you state for the record what the conversation was at that time?

A. The only conversation that I remember was about who was going to put some floor conveyers in the floor there, whether it would be done by the iron workers or the millwrights.

RONALD W. REEVES, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. What labor organization are you a member of?

A. Carpenters & Joiners of America.

Q. Are you affiliated with any local?

A. Local 60.

Q. And where is Local 60 located?

A. 531 East Market Street.

Q. What city?

A. Indianapolis.

Q. Have you ever heard of a concern doing business under the name of Mechanical Handling Systems, Incorporated?

A. Yes.

Q. Will you tell us whether or not you have ever been employed by that firm?

A. Yes.

Q. When?

A. Well, it was in February, in 1957, I started to work for them.

Q. In what capacity were you working for them?

A. Well, I started out as a journeyman.

[fol. 50] Q. Did that capacity at any time ever change?

A. Yes.

Q. What other position did you hold?

A. Foreman.

Q. Now, directing your attention to your being hired by Mechanical Handling Systems will you state whether or not you had a referral slip?

A. I did the morning I went to work.

Q. And from whom was that referral slip?

A. Well, it was signed by Smith.

Q. By Smith. That is—

A. That's the business agent.

Q. For what?

A. For the District Council.

Q. Now, based upon your experience as a member of the Carpenters' union in the Indianapolis area, will you state what the practice is, if any, with regard to men from other local coming into the area?

A. Well, they have to get a permit in order to come to work. That is the practice in all areas, not just in Indianapolis.

By Mr. Rogers:

Q. Will you state for the record whether or not there is any other way that men can go to work?

A. Why they can clear in through Indianapolis.

Q. What do you mean by clearing in?

A. Well, that's a process where you check out of one local and into another in another area.

Q. I see. Will you state for the record what you mean by a permit?

A. Well, you hold your status in your—Well, I will take that back! You give up your status in the local which you were formerly a member of when you take out a permit—I am sorry.

Trial Examiner: All right.

Mr. Rogers: Start again, and explain it, if you will.

A. (Continued) A permit. You continue to hold your status in your home local wherever that might be.

[fol. 51] By Mr. Rogers:

Q. I see.

A. And then you pay an assessment or—They give you a card—I have had several of them—but it is actually a double assessment is what it amounts to.

Trial Examiner: Now, isn't this it, which may be my understanding, that a man who is a member of a local outside of the jurisdiction of a local where he is going to work, he goes to that local and he asks for a permit to work; he remains a member of the local in which he holds his membership?

The Witness: Yes.

Trial Examiner: He works in this new district where he doesn't belong?

The Witness: Yes.

Trial Examiner: He pays for the services that this district gives him when he gets the permit card?

The Witness: That's right.

Q. All right. Now, based on your experience as a member of Local Number 60 of the Carpenters, what is the practice, if any, with regard to giving or not giving preference to local men over men coming in?

A. Well, they always give the local men preference if—especially if work is hard to get.

Q. Now, directing your attention again to these work permits, will you state for the record whether or not there is any time limit on these work permits?

A. Thirty days.

Trial Examiner: Pardon me just a moment, Mr. Rogers. Now, we are talking about work permits and we are talking about men working in Indianapolis on jobs. That refers to men who are members of the union, doesn't it?

The Witness: Yes.

Trial Examiner: And the jobs, referred jobs that are controlled by the union on which the union controls the labor; isn't that right?

The Witness: Yes.

Trial Examiner: Now, how would a non-union man go [fol. 52] about getting a job? Could he get a permit card from the union, from the local?

The Witness: No.

Trial Examiner: He could not get it?

The Witness: No.

Trial Examiner: Could a man who is not a member of the union, a non-union member, go to a union job where there is a union contract and get a job on that job?

The Witness: No.

Trial Examiner: He couldn't do it?

The Witness: Not as far as I know.

Trial Examiner: Not as far as you know. Thank you.

By Mr. Rogers:

Q. Now, Mr. Reeves, will you state what the practice is, if any, with regard to renewing work permits at the end of 30 days?

A. Well, you have to go down to the union hall and show that you are paid up in your own local, and your book is still in good standing in order to get that.

Q. You stated that permits were of 30-day duration. Will you state whether or not work permits are automatically renewed?

A. Well, if there's plenty of work, yes.

Q. And if there isn't plenty of work?

A. Then they don't renew them and these work permits are for out-of-town members or out-of-town members of the organization.

OTHO MATTHEWS, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. Will you state for the record what your occupation is?

A. Millwright.

Q. Will you state whether or not you are a member of any labor organization?

[fol. 53] A. I belong to Local 60 of the Carpenters and Millwrights, at 531 East Market Street.

Q. How long have you been a member of Local 60?

A. Approximately four years this last time. I was in once before.

Q. Have you ever heard of a concern doing business under the name of Mechanical Handling Systems, Incorporated?

A. I have.

Q. Will you state whether or not you have ever been employed by that firm?

A. I was.

Q. When?

A. This year, '57, from January, the latter part of January until about August.

Q. Now, will you state for the record what capacity you were employed in?

A. Foreman; millwright foreman.

Q. Now, directing your attention to the occasion of your being hired by Mechanical Handling Systems, will you state the facts and circumstances surrounding your being hired?

A. I was sent from the hall to the job with a card stating that I was capable of handling the job, that I was qualified to handle the job, and I was a paid-up member.

Q. And you said you were sent from the hall. What hall?

A. Local 60. I think the referral card, I don't recall clearly, but I think it was signed by Mr. R. Smith.

By Mr. Rogers:

Q. Now, directing your attention to the day you were hired, will you tell us whether or not you showed your referral slip to anybody other than Mr. Roberts?

A. I think that's the one I gave it to. I was sent to ask for Mr. Roberts.

By Mr. Rogers:

Q. Who is Ralph Smith?

[fol. 54] A. Business representative for District Council, Local 60.

DONALD E. ASHLEY, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. What is your occupation, Mr. Ashley?

A. Millwright.

Q. Will you state whether or not you were employed during the months of January and February, 1957?

A. I was.

Q. Where were you employed?

A. Mechanical Handling Systems, Ford Motor Company.

Q. Will you state whether or not you are a member of any labor organization?

A. I am a member of Local 60, Carpenters & Joiners of America.

Q. How long have you been a member of Local 60?

A. Twelve years.

Q. Now, will you state whether or not in the months of January and February, 1957, you held any position with regard to Local 60?

A. I was union steward on the job at Ford Motor Company for Mechanical Handling.

By Mr. Rogers:

Q. Directing your attention to your employment at Mechanical Handling Systems, Incorporated, and your status there as union steward, will you state whether or not you had any duties as steward?

A. As a union steward I checked all the cards that came on the job.

Q. I see. When you say you checked all the cards, what do you mean?

A. I checked the cards to see if they was union men. [fol. 55] and if they had a paid-up card.

Q. What do you mean by "a paid-up card"?

A. If the card was paid up in full.

Q. Did you have any other duties with respect to incoming men?

A. No.

Q. Did you have occasion to take the names and addresses of these men?

A. When I checked the cards they wrote their name and address down on a steward report.

Q. What, if anything, did you do with the names and addresses of these men?

A. I turned them over to the District Council.

Q. After a man coming in had checked with you, did you or did you not refer them to anyone?

A. They would come into the job and see Mr. Roberts first, and then they was referred to me.

Q. I see. Before they went to work?

A. Yes, sir.

Q. Now, based upon your knowledge obtained as a steward at Mechanical Handling Systems at the Ford plant, would you state whether or not there were any millwrights hired on that job who were not members of Local 60, or cleared by the Indianapolis & Central Indiana District Council?

A. There was not.

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ERNEST A. WALLACE, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. By whom are you employed?

A. Mechanical Handling Systems.

Q. What is your capacity?

A. General foreman.

[fol. 56] Q. Will you tell us whether or not you hold the same job now as you did in January and February of 1957?

A. Yes, sir.

Q. Can you tell us whether or not you had occasion to be in Indianapolis, Indiana in January and February of 1957?

A. Yes, sir; I was.

Q. How did it come to be that you were in Indianapolis, Indiana?

A. I come down to Indianapolis, Indiana to erect the overhead conveyer for Mechanical Handling Systems at Ford Motors.

Q. Now, when did you first get to Indianapolis? Is that in the record?

A. That was around, I would say around the 16th or 17th of January, to the best of my knowledge.

Q. Of 1957?

A. Fifty-seven; yes, sir.

Q. Do you know a man by the name of Ralph Smith?

A. Ralph Smith? Yes, sir.

Q. Who was Ralph Smith?

A. This gentleman over here (indicating).

Q. Do you know what his position is?

A. I assume he's business representative for the local or for this Indianapolis.

Q. When you first got to the Ford job in Indianapolis in January of '57, did you have any occasion to talk to Mr. Smith with regard to a practice to be followed in obtaining carpenters and millwrights?

A. I was on the project I would say about a week and a half when Mr. Smith come on the job and I was introduced by Mr. Roberts.

Trial Examiner: Did you send for Smith, or did Smith just come out there?

The Witness: No, sir. He made frequent visits to the Ford Motor Company installation.

Trial Examiner: I see. All right.

By Mr. Rogers:

Q. Now when, to the best of your knowledge was that?

A. Well, I would say that was around the 22nd or 23rd. [fol. 57] It was a week after I got into Indianapolis, approximately a week, or a week and a half, something like that.

Q. Where did this take place?

A. At Ford Motor Company.

Q. And who, if anyone else, was present?

A. Well, there was Mr. Roberts of Mechanical Handling Company, Larry Verkler of Mechanical Handling Company, and myself; and there was a gang of fellows, I couldn't recall all their names.

Q. Now, will you state for the record what was said at that time, if anything?

A. Well, to the best of my knowledge we were talking about the overhead conveyer when it started. We hadn't started it yet. We were talking about what union was going to do what work, and what union was going to do the other work.

Q. I see. And can you tell us whether or not there was any reference to the furnishing of men?

A. We were told that the men would come out of the labor pool.

Q. Out of what?

A. The labor pool or the union hall; that he would supply us with men.

Q. Who?

A. Mr. Smith.

Q. And will you tell us whether or not Mr. Smith said anything about the practice which would be followed?

A. No, sir. He just—he gave us the area practice or their sheet for Indianapolis territory governing their union members and their—I don't know, they work rules, and such as having water on the job and safety precautions, and et cetera and et cetera.

Q. Will you state for the record what the practice was with respect to obtaining a man for employment, a millwright?

A. Well, let me put it this way: On the overhead conveyer one craft installs one portion, the other craft installs the latter portion. The work was a little hard to base how [fol. 58] many men we needed at the time, but when we needed men for work we would call the union and prescribe so many men, so many welders, so many burners.

Q. At any time during your employment at the Ford job did you become aware that either Mr. Carter or Mr. Stevenson had made an application for work?

A. Well, the day I was introduced to Mr. Carter I didn't know Mr. Carter, but Mr. Stevenson had worked for me in Louisville, Kentucky at the General Electric job. That's back in the early '50s, '51 or '52, along in there. They come out to see about a position or a job at Ford Motor Company with us at Mechanical Handling.

Q. When was that?

A. Oh, boy, you have got me on dates. I would say, well, I hadn't started the overhead conveyer, I didn't start that until the middle of February, so it was around I would say the first part of February or the latter part of July—I mean January. Pardon me.

Q. Do you know whether or not Mr. Carter and Mr. Stevenson made more than one application for employment?

A. Well, they came out twice to my recollection. They come out the first time and asked how the job situation was, and at that time we were just working on the pits, on the tank conveyer, and we had our capacity of men there. In fact, I was just dead wood, so to speak, because I was down there two weeks before I started to work on the overhead.

Q. I see. On the occasion that they made their first

application for employment, did you have a conversation with them?

A. I talked to them, yes. We were introduced and we talked, talked about Louisville.

Q. Will you state for the record what that conversation was, to the best of your recollection?

A. You mean the first or second time?

Q. The first time.

A. The first time they just talked about a job and Sherm [fol. 59] told them—Mr. Roberts told them that at the time, the first time, that there was no work because we had no prints or no steel for the overhead, and we had a full crew, and he couldn't put them to work. That was the first time.

Now, the second time they came out was, I would say, a week or two weeks after the first time they came out. They came out to see how the work situation was, if we had our prints, if we could go ahead to work on our overhead or could he hire more men.

Q. I see. Where was that?

A. That was at Ford Motor Company.

Q. And was anyone else present at the time you talked to them on that occasion?

A. Not in the immediate office; no, sir, there wasn't.

Q. Have you given us the entire conversation that you had on that occasion?

A. To the best of my ability, sir, I have. I may have left out parts, I couldn't remember.

Q. Now, do you recall whether or not on either of those occasions there was any reference made by either yourself or Mr. Roberts to clearing into the union?

A. Well, what I recollect on that clearing-in business or permit business, that's how the letter come about so that they wouldn't have, so to speak, no trouble of going down there presenting their credentials to get a permit; and the reason they wanted a letter to get the permit was that when we had work they would be given a call and there would be no red tape or lost time, they would just come on the job.

Q. I see. Now, directing your attention to the period of time immediately following their second application for

employment, will you state whether or not you had occasion to talk to either Mr. Carter or Mr. Stevenson?

A. In what way, sir? I mean, just talk—talk shop or just personal talk, or what?

Q. Well, to be more specific: Directing your attention to the 7th—well, strike that. The day following their application for employment on the second occasion, will you tell us whether or not you had a telephone conversation with Mr. Stevenson?

[fol. 60] A. I did, sir.

Q. Where were you at the time you had this conversation?

A. Ford Motor Company, in the crib. That's Mechanical Handling's crib.

Q. Will you tell us how you knew you were talking to Mr. Stevenson?

A. He identified himself, told me who he was.

Mr. Rogers: What was that conversation?

A. You mean the conversation on the phone?

By Mr. Rogers:

Q. Yes.

A. Mr. Stevenson called, he wanted to talk to Mr. Sherm Roberts. Mr. Roberts was out of the crib and I told him who I was and he told me he had brought the letter down to the hall and he could not get a permit, and he said something about if he did get a permit there would be some kind of charge against him. I told him I had never heard of such a thing, to contact the International.

Cross examination.

By Mr. Ruegsegger:

Q. Did you have any contact with Mr. Carter after that second occasion?

A. No, I didn't. You mean on the telephone conversation?

Q. After the second occasion when Mr. Carter and Stevenson were out at the plant?

A. Yes, sir.

Q. Inquiring for work, and the letter was given?

A. Yes, sir.

Q. And the only contact that you had after the second time that you and Mr. Roberts talked to Messrs. Carter and Stevenson on or about February 6th, is the telephone conversation that you have told us about with Mr. Stevenson?

A. Yes, sir.

[fol. 61]

Cross examination.

By Mr. McGowan:

Q. Mr. Wallace, you heard Mr. Roberts' testimony with relation to the letter that was given to Mr. Carter and Stevenson?

A. Yes, sir.

Q. And the reasons it was given at their urging, to this testimony?

A. Pardon me.

Q. It was given at their urging to satisfy them at their request. Did you hear him testify to that?

A. What I recollect was—I don't know who specifically asked for it. I didn't pay too much attention, but I do know, in fact, I dictated the letter.

SHERMAN P. ROBERTS, a witness recalled by on behalf of the General Counsel, resumed the stand and testified further as follows:

Further redirect examination.

Q. Following the date of February 6th did you or did you not hire more than one millwright?

A. Yes.

Trial Examiner: How many would you say you hired after that?

The Witness: Well, I would say about 12 or 15.

Trial Examiner: Twelve or 15. How many millwrights did you have altogether on that job?

The Witness: We had about 25.

.

By Mr. Rogers:

Q. Mr. Roberts, I again show you a document which has been marked for identification as General Counsel's Exhibit Number 3, and ask you to state what that is?

A. That is an International agreement with the United Brotherhood of Carpenters & Joiners of America.

Q. And that's an agreement between the Carpenters [fol. 62] and what company, if any?

A. Mechanical Handling Systems.

Q. Now, will you state whether or not you have ever had a copy of that contract in your possession?

A. Yes, I have.

Q. Can you state whether or not that contract was in effect during the months of January and February, 1957?

Mr. McGowan: Objection, Mr. Examiner.

A. It was.

Trial Examiner: I beg your pardon?

Mr. McGowan: May I object to that?

Trial Examiner: Overruled. Answer the question.

A. (Continued) It was.

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(The document previously marked General Counsel's Exhibit No. 3 for identification was received in evidence.)

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RALPH R. SMITH, a witness recalled by and on behalf of the General Counsel, resumed the stand and testified further as follows:

Further direct examination.

By Mr. Rogers:

Q. Mr. Smith, will you state whether or not during the months of January and February you held any office with the District Council, Indianapolis & Central Indiana District Council?

A. Not as an officer, no.

Q. Isn't it a fact that you were president of District Council until June 6th, or June 7, 1957?

A. I believe you are right.

By Mr. Rogers:

Q. Now, Mr. Smith, yesterday you testified that you had a meeting with Mr. Roberts in January of 1957 at the Ford plant. Now, isn't it a fact that at that time you discussed the matter of arrangements between Mechanical Handling [fol. 63] Systems, Incorporated, and the District Council for procuring millwrights for that job?

A. At that time I gave him a copy of the contract that we had with the General Contractors Association, which we asked that he work under.

By Mr. Rogers:

Q. Mr. Smith, I will show you a document which has been marked for identification as General Counsel's Exhibit Number 6, and ask you if that isn't the affidavit you gave to the National Labor Relations Board?

A. Yes, that's right.

Q. Now, I direct your attention to the fourth paragraph of that affidavit and specifically direct your attention to this statement: "This was just shortly—" referring to Mr.

Roberts—"This was just shortly after he arrived in the area, and he advised me that his company had an International agreement with our union, and that he would abide by its terms."

Does that refresh your memory in any way with respect to whether or not Mr. Roberts advised you of the International agreement, and that he would abide by its terms?

A. Specifically I don't remember that conversation now. The gentleman who came to the office and asked that I write this, made a—put a certain number of things in there—as a matter of fact, he asked several of these questions and he did ask about an International agreement.

Q. Now, this affidavit was true and correct at the time you gave it, was it not?

A. It still is.

Trial Examiner: What is the answer?

The Witness: It still is true.

(The document previously marked General Counsel's Exhibit No. 6 for identification was received in evidence.)

Mr. Rogers: At this time, Mr. Trial Examiner, I propose a stipulation that the document marked for identification as General Counsel's Exhibit Number 7 is the constitution, bylaws and trade rules of the Indianapolis District Council, which was in effect from August 17, 1954 until March 7, 1957; and that General Counsel's Exhibit Number 8 is the constitution, bylaws, and trade rules of the Indianapolis & Central Indiana District Council, which has been in effect since March 7, 1957.

Mr. McGowan: Is that right?

The Witness: If those dates are correct it is right.

Mr. McGowan: Yes, we agree to it.

Mr. Ruegsegger: I don't know.

Trial Examiner: He wouldn't know, of course.

Then the documents may be, under the stipulation, the ones that are marked 7 and 8 for identification, the constitutions and bylaws, will be admitted in evidence.

(The documents previously marked General Counsel's Exhibits Nos. 7 and 8 for identification were received in evidence.)

By Mr. Rogers:

Q. Now, Mr. Smith, directing your attention to the early part of February, 1957, you had an occasion to talk to Mr. Elza Stevenson and Mr. Hafford Carter with regard to their request for a work permit, did you not?

A. Yes, I did.

Q. And at that time these men presented to you a letter from superintendent Roberts, didn't they?

A. They said it was from Roberts.

Q. Did they show you the letter?

A. They gave me a letter; they said that Mr. Roberts had sent to me by them.

Q. I will show you the document which has been marked for identification as General Counsel's Exhibit Number 5, and ask you if that isn't the letter that they showed you?

A. I believe it is. I had it in my hand only a few minutes and I couldn't be certain.

Q. To the best of your knowledge is it the same document?

[fol. 65] A. I assume it is. I don't have any way of knowing.

Q. Now, what did you do?

A. When these gentlemen gave me this letter I didn't know whether it was a letter from Mr. Roberts or not.

Q. Did you give them a work permit?

A. No, I didn't give them a work permit. I told them that I would go out and talk to Mr. Roberts and see if this letter was from him.

Q. They had asked you for a work permit, had they not?

A. Yes, I believe they had.

Q. Now, on the following day you also had a conversation with these two men, didn't you?

A. I think so.

Q. And again they asked you for a work permit, didn't they?

A. I believe they did.

Q. And again you did not give them a work permit?

A. No. I don't give work permits.

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Cross examination.

By Mr. McGowan:

Q. Mr. Rogers asked you some questions about your conversation with Mr. Roberts when you first saw him out on that job out there.

A. Yes, sir.

Q. And I believe you recall accurately that that affidavit mentioned the International agreement, and you stated that you had given him a contract?

A. That's right.

Mr. McGowan: I would like this marked as Respondents' Exhibit Number 1.

(Thereupon, the document above referred to was marked Respondents' Exhibit No. 1 for identification.)

By Mr. McGowan:

Q. Mr. Smith, I will show you what has been marked as Respondents' Exhibit Number 1, and ask you if that is the agreement to which you refer?

[fol. 66] A. This isn't the exact agreement I gave him. There have been two changes in it.

Q. Will you point out the changes?

A. The two changes in this agreement were wages—that would be wrong. That may be the only change that we made; that this agreement is different from the agreement that I gave him is wages.

• • • • •
Q. Now, can you tell us, in your conversation with Mr. Roberts if you reached any agreement or understanding as to the hiring practice which would be followed other than might be implied from anything in that document that you gave him?

A. I gave Mr. Roberts the agreement, and I said, "We

live by this 100 per cent. What is in it we will do. That's our agreement with you."

Q. My question is directed to this, Mr. Smith: Is there anyone other than yourself connected with the District Council or the local union, who would have the authority to make any agreement whatsoever with Mechanical Handling Systems on that job?

A. I would be the only one that could make an agreement officially.

Q. There is no one else in authority to make an agreement?

A. No.

Q. Mr. Rogers asked you a question which, if my memory is correct, was whether or not you had told Mr. Stevenson or Mr. Carter, or either of them, that they would have to clear into Local 60. Do you recall that question?

A. I recall the question, yes.

Q. And you said no; is that correct?

A. I said no.

Q. Did you tell them they would have—Did you say anything to them in regard to clearance or necessity for clearance other than into Local 60?

[fol. 67] A. That's been a long time ago.

Q. To the best of your recollection?

A. I would suggest to anybody working in this district, no matter who they were, that they should clear into this district if they wanted to work here. I don't specifically recall saying that to him or to anybody, but that's my usual instructions.

Redirect examination.

Q. . . .

Mr. Smith, on that occasion when you were talking to Mr. Roberts you didn't sign any documents of any kind, did you?

A. No.

Q. And Mr. Roberts didn't sign any documents of any kind, did he?

A. No.

Recross examination.

By Mr. McGowan:

Q: Let me ask you this, Mr. Smith: In connection with the relationship between any particular contractor and the District Council, where you have an agreement in effect, is your relationship controlled by your agreement or by your bylaws?

A. Our relationship is controlled by the agreement we have with the Contractors Association.

HAFORD B. CARTER, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. Can you tell us whether or not you have ever been employed by Mechanical Handling Systems, Incorporated? fol. 68] A. Yes, sir.

Q. Where?

A. In Detroit first, and, oh, innumerable places for two or three years. The last time in Louisville, Kentucky for about two-and-a-half years.

Q. In what capacity were you employed by Mechanical Handling Systems?

A. Millwright foreman.

Q. Will you tell us whether or not you are a member of any labor organization?

A. The Millwrights.

Q. What local are you a member of?

A. At that particular time it was 2209 in Louisville. At the present it is 576, Pine Bluff, Arkansas.

Q. Will you tell us whether or not you have ever been a member of Local 60, United Brotherhood of Carpenters & Joiners of America, AFL-CIO?

A. In Indianapolis, no, sir.

Q. Will you tell us whether or not you have ever cleared into the Indianapolis & Central Indiana District Council of the Carpenters?

A. No, sir.

Q. Now, directing your attention to the latter part of January, 1957, did you have occasion to go to Indianapolis?

A. Yes, sir.

Q. From where?

A. From Louisville, Kentucky.

Q. On that occasion can you tell us whether or not anyone went with you?

A. Mr. Stevenson.

Q. Now, to the best of your recollection when did you come to Indianapolis?

A. I couldn't give you the exact date, but it was in the latter part of January.

Q. Now, on the day that you came to Indianapolis can you tell us whether or not you had occasion to go to the offices of Local 60 of the Carpenters?

[fol. 69] A. We did.

Q. On that occasion did you have a conversation with anyone?

A. When we came over here we first went to the local and there was no one there. It was lunchtime or thereabouts.

Q. Did you talk to anyone while you were there?

A. Yes, sir. That's what I am trying to think about. Anyway, the business agent was not there, and someone in charge, whoever it was, told us that he wouldn't be back until after 4:30, probably 5:00 o'clock in the afternoon, and the financial secretary was sick and he wouldn't be in. In other words, there would be no one in until around 4:30 or 5:00 o'clock in the afternoon.

Q. Who was present when you had this conversation?
A. Mr. Stevenson.

Q. Will you state the circumstances surrounding the reasons for your trip to Indianapolis?

A. I had been working for Mechanical Handling Systems for the past two-and-a-half years over in Louisville, and my field supervisor, Mr. Simpson at that time, we were working at General Electric Company, and they had dropped—General Electric had dropped all of their contract that they had already awarded for '57 and '58. And Mr. Simpson—

Q. Just a moment, Mr. Carter. Can you tell us whether or not you had a conversation with Mr. Simpson?

A. Mr. Simpson?

Q. Yes.

A. Well, he was my field supervisor at that time in Louisville, Kentucky.

Q. Did you have a conversation with him which bore on the reasons for your coming to Indianapolis?

A. Yes, sir.

Q. When did you have such a conversation?

A. About two days before I came over here.

By Mr. Rogers:

Q. Now, directing your attention, Mr. Carter, to the occasion when you were in Indianapolis in January, 1957, [fol. 70] will you tell us whether or not you had a conversation on that day with Mr. Sherman T. Roberts?

A. Yes, sir.

Q. What time of day did you have that conversation?

A. It was in the afternoon, after 12:00, but what time I couldn't say exactly.

Trial Examiner: What is the date of that?

The Witness: I couldn't say definitely.

Mr. Rogers: Late in January is his testimony.

Q. I see. And where did this conversation take place?

A. At the Ford Motor Company in Indianapolis.

Q. Fill you state for the record what that conversation was?

A. It was about work in—I had worked for Mr. Roberts beforehand, and my supervisor from down at Louisville had recommended me to come over here for three or four months—

Trial Examiner: Is that what you told Roberts?

The Witness: Yes, sir.

Trial Examiner: All right.

A. (Continued) And also I had worked for Mr. Roberts beforehand, and he told us at that particular time he would like to have us on the job, but we would have trouble getting through the local.

By Mr. Rogers:

Q. Will you state whether or not you asked Mr. Roberts for employment?

A. Yes, sir; I did.

Q. Now, can you tell us whether or not you were employed?

A. At that time, no.

Q. Can you tell us whether or not Mr. Roberts gave you any reason for not employing you at that time?

A. Not any more so than as to whether or not I could get clearance through the local.

Trial Examiner: How did Roberts put that to you? Just what did he say, as near as you can remember?

The Witness: As near as I can remember, sir, he said [fol. 71] that he would like to have me especially as I had worked for him before, on the job, it was just beginning, but he felt like that I would have an awful lot of trouble getting through the local and getting a clearance card to go to work; and for me to go back down to the local and wait until someone came in to see as to whether or not I could get clearance.

Trial Examiner: Thank you.

By Mr. Rogers:

Q. Can you tell us whether or not Mr. Roberts at that time said anything with regard to lack of materials?

A. Yes, sir. He said that the job was just beginning and all the material was not there, he did not have his blueprints and things there at that time.

Q. Can you tell us whether or not anything was said with respect to the subject of your coming back?

A. Yes, sir.

Q. What was said on that subject?

A. We came back to the union hall and the financial secretary—

Q. I am just interested in what Mr. Roberts told you.

A. Yes, sir. The financial secretary told us to—or someone there, I wouldn't say who it was, told us we would have to go to the District Council, and at that time it was only about a block, oh, a half a block from the union hall, and so we went around into the District Council and someone was there, I cannot remember his name, but anyway we talked to him and told him what Mr. Roberts had told us.

Q. Who was there at that time?

A. I don't know his name. Mr. Stevenson and myself and this other person.

Q. What time of day did that take place?

A. That was late in the afternoon, around, oh, 4:00—

Q. Was this before or after you had talked to Mr. Roberts?

A. After.

Q. And where did you say this conversation took place?

A. In the District Council office, I presume, at that time.

Q. I see. Will you tell us what that conversation was?

[fol. 72] A. We told him what Mr. Roberts had told us and whoever the gentleman was, he said, "Well," he says, "I can't take your word for it." He says, "Can you get in touch with him?"

Well, it was after working hours at this particular time, so I called Mr. Roberts on the telephone.

Q. Was that at the same time?

A. Sir?

Q. Was that at the same time you had the conversation with this man at the District Council, that you called Mr. Roberts?

A. Yes, sir.

Q. All right.

A. And he talked to Mr. Roberts and he instructed me to listen in on the telephone, which was on the next desk, to their conversation. Mr. Roberts told him that he would like to have us to go to work some time the following week; and whoever this gentleman was, he says, "Well, I can't give him a permit at this time to hold in his pocket. Send them back here then."

Q. Was that the extent of the conversation?

A. Yes, sir. And at that time Mr. Roberts also instructed me to call him back within two weeks, that he would definitely have work for us.

Q. All right. Now, can you tell us whether or not there after you did call Mr. Roberts at any time?

A. Yes, sir; I did.

Q. When did you call him?

A. Approximately two weeks thereafter.

Q. Do you recall the date?

A. I would say it was on the 6th of February. No, on the 5th.

Q. Of what year?

A. 1957.

Q. Now, where were you at the time you placed that call?

A. I was home in Louisville, Kentucky.

[fol. 73] Q. Can you tell us whether or not the voice on the other end of the line at that time identified itself in any way?

A. It was Mr. Roberts definitely.

Q. Will you tell us what that telephone conversation was?

A. He told me to come over the next day and get Mr. Stevenson, that he had plenty of work and would definitely like to have us go to work at that time.

Q. All right. Now, directing your attention to the following day, what, if anything, did you do?

A. We came to Indianapolis.

Q. Who is "we"?

A. Mr. Stevenson and myself.

Q. And on that day will you tell us whether or not you had an occasion to talk to Mr. Roberts?

A. Yes, sir.

Q. Where were you?

A. Out at the Indianapolis Ford plant.

Q. And where were you at that time?

A. At what we called their "office," their place where they stored materials and—

Q. Was anyone else present?

A. Yes, sir.

Q. Do you recall who?

A. Mr. Wallace and their foreman that they had brought from Detroit. . . .

Q. All right. Will you tell us what that conversation was?

A. Mr. Roberts told—well, there was a Mr. Jones, I had been in Anderson, Indiana overnight looking for work over there, and a Mr. Elwood Jones came down with me, and we met Mr. Stevenson at the Local, Local Union 60 here, and the three of us went out to the Ford Motor Company, and Mr. Roberts told us at that particular time that he would definitely like to have us to go to work at that time, right then if possible.

Q. Now, when he said he would like to have you go to work, to whom did he have reference?

[fol. 74] A. Me and Mr. Stevenson. He said not Mr. Jones, because he had not promised him work beforehand.

Q. What, if anything else, was said?

A. He said we would—He and Mr. Wallace said that we were still going to have trouble trying to get through the union, and didn't know as to whether or not we would, but he was going to give it a try. And Mr. Wallace recommended that he give us a letter of recommendation, and

Mr. Roberts said, "Well, that will be all right. Go ahead and write it up and I will sign it."

Q. Can you tell us whether or not Mr. Roberts did give you such a letter of recommendation?

A. Yes, sir.

Q. Now, thereafter on that day can you tell us whether or not you had occasion to go to the offices of Local 60?

A. Yes, sir.

Q. What time of day was it?

A. Well, it was in the afternoon.

Q. Now, on that occasion can you tell us whether you had a conversation with anyone?

A. We went to Local 60 and presented this letter, and whoever was there, I take it to be the financial secretary, it could have been the business agent, he said that he couldn't do anything about it, we would have to go to the District Council.

Q. Was anyone else present at that time?

A. Mr. Stevenson and myself.

Q. Now, following that did you have occasion to go to the offices of the District Council?

A. We did.

Q. Can you tell us whether or not you saw anyone over there?

A. Yes, sir.

Q. Whom did you see over there?

A. At that particular time I didn't know. We assumed that it was the business agent for the District Council.

Q. Can you state whether or not you had a conversation with that individual?

[fol. 75] A. Yes, sir.

Q. Who else was present, if anyone?

A. There was a secretary, and Mr. Stevenson and myself.

Q. All right. Will you state for the record that conversation as you now remember it?

A. We asked for a permit to go—

Mr. McGowan: Mr. Examiner, I object, unless he can identify the man he was talking to.

Trial Examiner: Do you know who you talked to?

The Witness: I do now, yes, sir.

Trial Examiner: Can you tell us who it was?

The Witness: This gentleman over here, Mr. Smith.

Trial Examiner: All right. Overruled. Go ahead and answer the question.

By Mr. Rogers:

Q. State the conversation.

A. We asked for a permit to go to work, and we also had a clearance from the Louisville local written out in the back of our book. We asked for a permit or permission to clear in to go to work.

Q. What, if anything, did he say?

A. Pardon me?

Q. What, if anything, did he say?

A. That was in the afternoon. He said, well, he would have to talk to Mr. Roberts. We presented this letter to him. He said he would have to talk to Mr. Roberts first as to whether or not it was—well, I presume, whether or not it was original, authentic, and for us to come back the next morning.

Q. Directing your attention now to the following morning, can you tell us whether or not you did go back?

A. Yes, sir.

Q. Now, what time of day was it?

A. It was before 8:00 o'clock, or thereabouts.

Q. Did you have a conversation when you got there, with anyone?

A. Yes, sir. With the same gentleman.

Q. Now, who was present at that time?

A. Practically the same ones.

Q. Well, practically was it—

[fol. 76] A. The secretary and Mr. Stevenson and myself.

Q. All right. Will you state what that conversation was at that time?

A. We asked him if he had talked to Mr. Roberts and he said no. We asked him if we could get a permit to go to work. "No." And we asked him if we could clear our book in and go to work. "No." And if we did try to clear

our book in he would see that charges were preferred against us.

Q. Do you recall anything further that was said?

A. Mr. Stevenson asked him if that was his final words, he was not going to give us a permit, and he said definitely yes, and turned and walked away.

Q. Now, can you tell us whether or not you had occasion to go to the offices of the International?

A. Yes, sir.

Q. That day?

A. Yes, sir. We went to the International office here in Indianapolis following that, and talked to a Mr. Schutes, I believe.

Q. Mr. who?

A. Shuey, I believe is his name.

Q. All right. Will you state what conversation you had at that time?

A. We stated our case to him, what had happened, and he told us at that time that in all probabilities if we could come back within the following—the next week I believe it was, that he could get our book cleared in, and he didn't think there would be any charges preferred against us.

Q. Did he say anything to you about whether or not charges could be levied against you?

A. To the best of my knowledge I don't believe he did.

Q. Could you tell us whether or not you ever did receive a work permit?

A. No, sir.

Q. Can you tell us whether or not you were ever employed by Mechanical Handling Systems in Indianapolis?

A. No, sir.

[fol. 77] Cross examination.

Q. Mr. Carter, the first time you talked to Mr. Smith he explained to you, isn't it so, that he wanted to check the letter to find out if it was authentic?

A. Yes, sir. And he also said he would call out there that afternoon, and Mr. Wallace stayed on the job until 6:00 o'clock that night waiting for his call.

Q. No, I am talking about the time when you first went in and he explained he would have to check on the letter. Did he leave then at the end of that conversation?

A. He said that he—He told us that he would check on it.

Q. Then what happened?

A. As far as I know he turned and went back to his desk or his secretary, or something, at that particular time.

Q. That's what I say; he went away?

A. Right.

Q. And then you left?

A. That's right. He told us to be back there the next morning at 7:00 o'clock, or 7:30.

Q. You took the letter with you?

A. We did.

Q. How did you expect him to check? Can you explain that, if you took the letter with the company name and the man's name on it?

A. He had Mr. Roberts' phone number and he could ask him whether or not he signed this letter for us.

Q. Where did he have the phone number?

A. Mr. Smith did.

Q. Where?

A. Mr. Roberts had already talked with him once that day.

Q. Were you there at the conversation?

A. No, sir, but he came back and told us that he had.

Q. Mr. Roberts told you that he had talked to him?

A. That's right.

Q. When you came back the next day it is so, isn't it, [fol. 78] that Mr. Smith again told you he would have to check for the same reason as the first day; isn't that a fact?

A. He told us he had not checked and wasn't going to.

ELZA STEVENSON, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. Will you tell us whether or not you are a member of any labor organization?

A. Yes, sir.

Q. What labor organization?

A. 2209, Millwrights.

Q. Will you tell us whether you have ever been employed by Mechanical Handling Systems?

A. Yes, sir.

Q. When?

A. On the General Electric job at Louisville, Kentucky, off and on all through the job.

Q. When were you last employed by Mechanical Handling?

A. In August of '56 I think it was.

Q. Will you tell us whether or not you have ever been cleared by or become a member of Local 60 of the Carpenters in Indianapolis?

A. No, sir.

Q. Can you state whether or not you have ever become a member of or been cleared by the Indianapolis & Central Indiana District Council?

A. No, sir.

Q. Now, do you know a man by the name of Hafford B. Carter?

A. Yes, sir.

Q. Who is Hafford B. Carter?

[fol. 79] A. A fellow which I traveled here with to Indianapolis seeking employment.

Q. Now, directing your attention to the latter part of January, 1957, will you tell us whether or not you and Carter made a trip to Indianapolis?

A. Yes, sir.

Q. To the best of your recollection when did you make that trip?

A. Well, that was on Tuesday, two weeks before the 6th of February. I don't know what the date was, but it was two weeks before the 6th.

Q. On that occasion when you arrived at Indianapolis, what, if anything, did you do?

A. Well, we first came to the local the best I remember, and we went to the Ford Motor plant.

Q. Now, following that you testified you went to the Ford Motor Company plant?

A. Yes, sir.

Q. Where did you go?

A. Well, we went to Mechanical Handling office, or the little crib, whatever they called it.

Q. Can you tell us whether or not you saw anybody there?

A. Yes, sir.

Q. Who did you see?

A. Mr. Sherman Roberts and Mr. Wallace.

Q. And can you tell us whether or not you had conversation with Mr. Roberts at that time?

A. Yes, sir.

Q. Will you tell us about that conversation?

A. Well, we asked them how the job was getting along, and if he needed any help, and that Mr. Simpson, the field superintendent down at General Electric had told us that this job was starting, and it might pay us to take a run up and see if he needed any men.

Q. What, if anything, did Roberts say?

A. Well, he said at that time that he didn't have all [fol. 80] the prints in, and the monorail hadn't come in yet, the steel for the monorail.

Q. Can you tell us whether or not Mr. Roberts said anything with regard to employing you?

A. Yes. He said he would like to have us work for him, Mr. Carter had worked for him before, he didn't know

me, I had never worked for him before, but I had worked for Mr. Wallace and—

Mr. McGowan: For Mr. who?

The Witness: Mr. Wallace, Wally, or whatever.

By Mr. Rogers:

Q. Do you recall whether or not Mr. Roberts had anything to say with regard to your coming back?

A. Yes, sir. He told us that he would have a job for us in a few days, as soon as the prints came in, and the monorail got started.

Q. Do you recall anything further about that conversation?

A. Well, he told us if we could clear through the union why we had a job any time we got through.

Q. Now, state whether or not on that day you had occasion to go to the offices of the District Council?

A. Yes, sir.

Q. When?

A. We came back from Ford Motor Company and went to the union hall to see about clearing in, or getting a permit to go to work.

Q. What time of day did you get to the District Council?

A. Well, we got over to the District Council around 4:00 o'clock, something like that.

Q. When you got there did you see anyone?

A. Yes, sir; this gentleman that was setting right over here this morning, the tall fellow. He made himself known as he organized labor and all in this district.

By Mr. Rogers:

Q. I am not sure that it is in the record: Now will you [fol. 81] state whether or not this man identified himself in any way?

A. Yes, he did. He introduced—We introduced ourselves to him and he told us who he was, but I don't recall his name.

Q. Do you recall whether or not he told you what capacity he held, if any?

A. He was a member of the District Council.

Q. Now, was anyone else present at that time?

A. Mr. Carter.

Q. And what, if any, conversation did you have with this man?

A. Well, we told him that we were from Louisville, and we had been out to the Ford plant, and Mr. Roberts told us that he would like for us to clear our book in, or else get a permit to go to work, because he wanted us in the next few days, or when we could get through the union.

Q. What, if anything, did he say?

A. Well, he didn't seem to care too much about it; and so Mr. Carter asked him would he talk to Mr. Roberts if he got him on the phone, to confirm our conversation.

Q. Well what, if anything, happened then?

A. Well, Mr. Carter called Mr. Robertson on one phone and this fellow talked to him on the other. He picked the phone up on the other desk and he talked with Mr. Roberts.

Q. Following that telephone conversation, can you tell us whether or not the District representative, or the man there at the District Council office said anything to you?

A. Yes, sir.

Q. What did he say?

A. He told us that being as we didn't have a job right then, Mr. Roberts told us that he didn't need us right that day but said he would use us in a few days, he told us to come back, or told us he couldn't give us a work permit right then to carry around in our pockets, being as we didn't have a job, but when we come back he would see what he could do for us.

Q. Will you state for the record whether or not you were given a work permit at that time?

A. No, we wasn't.

[fol. 82] Q. Now, directing your attention to February 6, 1957, will you state whether or not you had occasion to come to Indianapolis, Indiana on that day?

A. Yes, sir.

Q. And will you state whether or not on that day you saw Mr. Hafford Carter?

A. Yes, sir. He came to Local 60, him and Mr. Jones, in the neighborhood of 10:30.

Q. Now, will you tell us whether or not on that day you had an occasion to talk to Mr. Roberts?

A. Yes, sir. We left—

Q. What time of day was it when you talked to Mr. Roberts?

A. Approximately 11:00 o'clock.

Q. And where was it that you talked to Mr. Roberts?

A. At the Ford Motor Company, in the little crib or office he had there.

Q. Was anyone else present?

A. Yes, sir. Mr. Carter and also Mr. Jones and Mr. Wallace and the timekeeper.

Q. All right. Will you state for the record what conversation took place?

A. Well, we told him we were back ready to go to work and he asked us had we cleared through the union, and we told him no, and he said, well, he had a foreman come down from Detroit and he had to give him a shipping letter to get him through the union.

Q. Can you tell us whether or not Mr. Roberts said anything with regard to having any employment for you?

A. Yes. He told us we could go to work as soon as we got through the union, he would expect us on the job the next morning at 8:00 o'clock.

Q. Now, you mentioned a shipping letter. What do you mean by a shipping letter?

A. Well, I reckon it is something that's commonly used with a contractor sending a new man into a new district somewhere.

Q. Will you tell us whether or not Mr. Roberts gave you anything on that day?

[fol. 83] A. Well, Mr. Wallace suggested that they write us a letter, but it wasn't a shipping letter or it wasn't a shipping-letter form or so. He said it would be the same or similar to a shipping letter.

Q. I see. And did or did not Mr. Roberts give you anything on that day?

A. Yes, sir. He gave us the letter to the union.

Q. I hand you the document which has been marked for identification as General Counsel's Exhibit Number 5, and ask you to state what it is?

A. This is the letter that we brought to the union.

Q. Can you tell us whether or not that's the letter Mr. Roberts gave you?

A. Yes, sir.

Q. Now, on February 6, 1957, can you tell us whether or not you had occasion to go to the offices of Local 60?

A. Yes, sir. We came from the Ford Motor Company back to Local 60.

Q. About what time of day?

A. Oh, it was approximately 1:00 o'clock.

Q. And can you tell us whether or not you saw anyone at the offices of Local 60?

A. We saw the financial secretary, I reckon it was Mr. Donald—I forget his name.

Q. How did you know it was the financial secretary?

A. Well, he said he was the financial secretary.

Q. Did you have a conversation with the financial secretary?

A. Yes, sir. We presented him the letter and—

Q. Who else was present?

A. Mr. Carter.

Q. Just the three of you?

A. Yes, sir.

Q. What was that conversation?

A. We gave him the letter and asked him if we could get a permit to go to work.

Q. What, if anything did he say?

A. He told us he didn't issue permits, and with a letter like that we would have to go to a District Council.

Q. On February 6th can you tell us whether or not you [fol. 84] had an occasion to go to the offices of the District Council?

A. Yes, sir.

Q. When did you go to the offices of the District Council?

A. Well, immediately after we left the Local 60 we went right straight on down to the District Council.

Q. When you got there did you see anyone?

A. Yes, sir.

Q. Whom did you see, if you know?

A. Mr. Smith.

Q. Can you tell us whether or not you had a conversation with Mr. Smith at that time?

A. Yes, sir.

Q. All right. Will you state for the record what was said in the course of that conversation?

A. Well, we identified ourselves as millwrights, that we had been out to the Ford plant and Mr. Roberts had given us a letter, and we gave it to him and told him that we wanted to go to work, and asked him for a permit to go to work.

Q. What did Mr. Roberts say—Mr. Smith say, if anything?

A. Well, he said for us to leave the letter there that afternoon and he would check with Mr. Roberts and see what about the letter, and let us know something the next morning around 8:00 o'clock.

Q. Will you tell us whether or not that was the extent of the conversation?

A. Well, we wanted to discuss it farther, and he went on back into the back room out of our presence.

Q. Will you state whether or not you left the letter with Mr. Smith?

A. No, sir; we didn't.

Q. Now, directing your attention to the following day, will you tell us whether or not you had an occasion to go to the offices of the District Council on that day?

A. Yes, sir.

Q. What time of day?

[fol. 85] A. Oh, somewhere in the neighborhood of 8:00 o'clock, before or around 8:00.

Q. Whom did you see, if anyone?

A. Mr. Smith.

Q. Can you tell us whether or not you had a conversation with Mr. Smith?

A. Yes, sir.

Q. Who was present at that time?

A. Mr. Carter and myself, and there was also another fellow present. I don't know who he was.

Q. All right, Will you state for the record what was said during the course of that conversation?

A. Well, we told him we was back and gave him the letter again, and he said that we should have left the letter with him that afternoon and he would have checked it out, and so we asked him if he would give us a permit to go to work, or had he ever checked it out, and he said no, he hadn't checked it out.

Q. Can you recall whether or not there was anything said at that time with respect to Local 60?

A. He told us that we could leave our books there and clear in to Local 60, but if we did why he would recommend that they impose a fine upon us for soliciting work, being out of the district.

Q. Will you state for the record whether or not you received a work permit from Mr. Smith?

A. No, sir, I did not.

Q. Now, will you tell us whether or not on February 7th you had occasion to go to the offices of the International Brotherhood—strike that—the United Brotherhood of Carpenters & Joiners of America?

A. Yes, sir.

Q. What time of day was it when you went there?

A. It was after we left the District Council, in the neighborhood of, oh, 9:00 o'clock I would say.

Q. Whom did you see when you got there, if anyone?

A. Well, we saw Mr. Shuey, but we went to see Mr. Hutcheson, M. A. Hutcheson is who we went to see, but he wasn't in, he was in a meeting that morning, so his secretary said, so she referred us over to Mr. Shuey.

[fol. 86] Q. And will you state whether or not you had a conversation with Mr. Shuey on that occasion?

A. Yes, sir.

Q. All right. Will you tell us about that conversation?

A. Well, we gave him the letter and told him that we had been to the District Council and what had happened there and all, and asked him how about getting hold of the District Council and getting them to give us a work permit.

Q. Do you recall whether or not you told Mr. Shuey anything about being fined?

A. Yes, sir, we told him.

Q. What did you tell him about that?

A. We told him that we was told at the District Council that if we tried to clear in we would be fined, and he said by him being a member of the District Council he didn't think it would happen.

Q. Did he say anything about whether or not it could happen?

A. Well, he said it was possible.

Q. Do you recall anything further about that conversation?

A. Well, he told us we could go back to the District Council and leave our book, and could clear in the following week, clear our books in the following week.

Q. Do you recall anything further?

A. No.

Q. Do you recall whether or not anything was said by Mr. Shuey at that time about going to work at any place you wanted to?

A. Oh, he told us we couldn't come into this district and expect to go to work, because they had too many men loafing and said we were out-of-town men and we couldn't expect to come in the district and go to work.

Q. Now, following your conversation with Mr. Shuey, will you tell us whether or not you had occasion to talk to Mr. Wallace of the Mechanical Handling Systems?

A. Yes, sir.

[fol. 87] Q. And will you state the circumstances surrounding your conversation with Mr. Wallace?

A. Well, I told him what had happened, we couldn't go to work.

Q. How did you know you were talking to Mr. Wallace?

A. Because I asked for Mr. Roberts and he said, "No, this is Mr. Wallace."

Q. And will you tell us about that conversation?

A. Well, I told him what had happened, that we hadn't been able to get a permit or wasn't able to go to work

for him the next morning—that morning and all. And he asked if we would try to come back and we told him that we might the following week. He said if we come back to get hold of another fellow down there, Tommy Craig, and get him to come back and have him to clear in at the same time that we were supposed to clear in.

Q. And do you recall whether or not he said anything about your being employed?

A. Yes. We had a job if we come back.

Q. Now, directing your attention to the period of time following February, 1957, will you tell us whether or not you had any charges filed against you by the District, Indianapolis & Central Indiana District Council?

A. Yes, sir.

Mr. Rogers: Will you mark these for identification, please, as General Counsel's Exhibits Numbers 11 and 12?

(Thereupon, the documents above referred to were marked General Counsel's Exhibits Nos. 11 and 12 for identification.)

By Mr. Rogers:

Q. Now, Mr. Stevenson, I will hand you the document which has been marked for identification as General Counsel's Exhibit Number 11, and ask you to state what it is?

A. It is the charges that were preferred against me for soliciting work in this district, Indianapolis district.

[fol. 88]

Cross examination.

By Mr. McGowan:

Q. Mr. Stevenson, didn't you go up there to get a job as a foreman on that Mechanical Handling job?

A. Myself as a foreman?

Q. Yes.

A. No.

Q. It was just Mr. Carter wanted to be the foreman; is that it?

A. I don't know whether he wanted to be a foreman or not, but we went seeking employment.

Q. That's the job you asked for, wasn't it, a job as a foreman?

A. No.

A. We were told we had to go through Local 60 to go to work.

Q. Who told you that?

A. That is what Mr. Roberts told us.

RALPH R. SMITH, a witness called by and on behalf of the Respondents, being first duly sworn, was examined and testified as follows:

Direct examination.

Q. Do you ever write permits without being notified by the contractor that a job is available for a particular man?

A. No, sir.

Q. Regardless of whether it is an individual request, or whether it is just a request for a number of men?

A. No, I never write permits under those conditions.

Q. Is there any reason for that, any practical reason?

A. Actually, yes. The man pays for a permit, and when we write a permit we put a specific job on that. If there isn't any job why the man would be out his money that [fol. 89] he paid. We make no provision to refund money under those conditions.

Q. That's the procedure of the local unions under the District Council?

A. There are several local unions, and they form a district council, and that's the function of the District Council.

Q. Those matters are all handled through the District Council?

A. That's right.

Cross examination.

By Mr. Rogers:

Q. Mr. Smith, in the operation of the District Council and in its relationships with the local unions, the fact of the matter is that the District Council refers out the members of the various local unions; isn't that right?

A. I don't understand your question, by "refers out."

Q. You testified, as I recall, that work permits are granted only by the District Council, and that the District Council was made up of a group of local unions; is that right?

A. A group of representatives from local unions.

Q. And in the matter of referring persons for employment to various employers in the area, the District Council refers members of the various unions who are members of the District Council; isn't that right?

A. No, that isn't right.

Q. Who do they refer?

A. The District Council makes an attempt to supply men if they are called on to do that. However, each member does and each local union does that same function.

Q. Well, I thought you indicated by your testimony that Local 60 did no referring of its members for work?

A. Do you mean notify its members where work is available? Is that what you mean?

[fol. 90] Q. Giving them referral cards to various locals.

A. Oh, yes, each local union is in a position to give referral cards to its members to go to any job in the district.

Q. And is the District Council also authorized to give referral cards to any of the members of the local unions?

A. Certainly they are, if they have a job.

Q. So that Local 60 has authority to refer its members out to various employers through the area?

A. Every member can refer another member to a job, whether it is an officer or just an ordinary member.

Trial Examiner: Now, at the time material in this proceeding, which is in January and February of 1957, was

there a valid contract in effect between the Mechanical Handling Systems, Incorporated, and the Council?

The Witness: Mr. Roberts had agreed to abide by our contract, yes.

Trial Examiner: Well, was there a written contract, a signed written contract?

The Witness: I don't believe there was.

Trial Examiner: He had merely made a verbal agreement to abide by your contract?

The Witness: Yes.

Trial Examiner: And in your opinion was he agreeing to abide by a union-shop contract?

The Witness: Yes, sir, he was. That was a union-shop agreement.

Trial Examiner: But there was no written agreement?

The Witness: There was a written agreement that he had, but no member of his company had signed one for our Council.

Trial Examiner: I see. And when did he make this, Mr. Roberts, in behalf of the Mechanical Handling Systems Company? When did he make this oral agreement with you?

The Witness: The first time that I saw him.

Trial Examiner: And when was the first time that you saw him?

[fol. 91] The Witness: I believe he said three days after the job started.

Trial Examiner: Was the job already going, as far as the Mechanical Handling was concerned, when you saw him?

The Witness: Yes, sir; it was.

Trial Examiner: Did they already have men employed?

The Witness: Yes, sir; they did.

Trial Examiner: Members of Local 60, or any of the brotherhoods that are named in this proceeding?

The Witness: I believe that they had one man from 1102 in Detroit, was on the job.

Trial Examiner: Just one. But anyone from your jurisdiction here on the job?

The Witness: No. He hadn't hired anybody.

Trial Examiner: He hadn't hired anyone. And at that time when he had not hired anyone and merely had here a

man from Detroit who was a member of the craft, he made an agreement with you to abide by the local contract?

The Witness: Yes.

[fol. 95]

BEFORE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT No. 7

CONSTITUTION, BY-LAWS and TRADE RULES
of the

INDIANAPOLIS DISTRICT COUNCIL

531 E. Market St.

Indianapolis, Ind.

Instituted August 12, 1881

(Union Label)

Always Demand the Label

UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA

CONSTITUTION

ARTICLE I

General

Section A. This body shall be known as the District Council of Indianapolis and Vicinity, of the United Brotherhood of Carpenters and Joiners of America, and shall be composed of regularly elected delegates from the Carpenters, Mill and Factory Workers, Local Unions of the United Brotherhood located in Indianapolis and Vicinity. Its jurisdiction shall be that as agreed to in the Contract with the Contractors Association and as certified with the Bacon-Davis Division of the United States Department of Labor.

ARTICLE IV

Standing Committees and Their Duties

• • • • •

Sec. 5. A Clearance Card Committee elected as set forth in Section 1, shall examine all Clearance Cards and recommend their acceptance to the Local Unions, or may hold clearances up until the next regular meeting, for investigation before recommending their acceptance by a Local Union of the District Council. Any officer failing to send clearance card members to the District Council Clearance [fol. 96] Card Committee shall subject the Local to a fine of Five (\$5.00) Dollars for each offense.

• • • • •

ARTICLE VII

Finance

Section 1. The finances of this District Council shall be derived from the following sources; Sale of Working Cards and Permits. Difference in initiation fees, and Ten (\$10.00) Dollars of all initiation fees during an Organizational campaign and all Trade Rule infraction fines.

• • • • •

Sec. 3. This District Council shall issue a quarterly Working Card to the Secretary of each Local Union for each member in good standing in the Local Union as per last monthly report, together with such extra cards as may possibly be required in addition thereto, taking a receipt therefrom, and the Local Union shall be held strictly accountable therefor. The District Council shall have full and complete control over the Working Cards at all times and under all conditions and may at any time, of itself or by its Business Agent, revoke the privileges of the card at its next meeting, together with a full report of the case, and no member shall have or be held to have any redress except from this Council. • • •

• • • • •

Sec. 4. Members coming into this district are required to procure a District Council Working Card and permit,

before seeking employment. Failing to comply with this section, they will be fined not less than Ten (\$10.00) Dollars and must at all times be governed by the General Constitution and the Trade Rules of this District.

[fol. 97.]

ARTICLE VIII

Initiation Fees and Dues

Sec. 2. Dues shall be Three (\$3.00) Dollars per month for both Beneficial and Honorary Members of the Carpenters and Millmens Locals. Two Dollars and Twenty-five (\$2.25) Cents for Apprentices. All members of construction, whether following the trade actively or inactive, except pensioned members, shall pay Three (\$3.00) Dollars per quarter for their Working Cards, to the District Council. Millmen shall pay One Dollar and Fifty (\$1.50) Cents per quarter for their Working Cards.

ARTICLE XI

Job and Shop Stewards

Sec. 3. It shall be the duty of all Carpenters before going to work on any job under the jurisdiction of this District Council to present his Working Card and address to the Steward on said job, subject to a fine of not less than Five (\$5.00) Dollars.

ARTICLE XII

Foremen

Section 1. There shall be a Foreman of Carpenters on all jobs or buildings where there are three or more Journey-men Carpenters employed; the Foreman shall be a Carpenter, and a member of the United Brotherhood in good standing with the Indianapolis District Council. Any member acting in capacity of Foreman on any job shall receive

not less than Twenty-five (25c) Cents more per hour than the minimum rate of wages for a Journeyman. While all Foremen should prove their efficiency as such, they shall not rush, use abusive language, nor otherwise abuse a workman under their direction. A violation of this section is punishable by a fine of not less than Ten (\$10.00) Dollars.

[fol. 98] Sec. 3. All Foremen will be held equally responsible with the Steward for the violation of any of the Trade Rules of this Constitution.

ARTICLE XIV

Trade Rules

Sec. 10. No member shall be permitted to work with a member or ex-member who has been fined or suspended after the thirty (30) day limit for payment of fine has elapsed, unless such fine has been paid in full, under penalty of not less than Five (\$5.00) Dollars fine.

Sec. 21. Union Carpenters of this District shall not be allowed to work with non-union Carpenters without permission of the District Council under penalty of not less than Fifty (\$50.00) Dollars fine.

Approved by:

John R. Stevenson,
First General Vice-President.

August 17, 1954.

[fol. 99]

BEFORE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT NO. 8

CONSTITUTION, BY-LAWS and TRADE RULES
of theINDIANAPOLIS AND CENTRAL INDIANA
DISTRICT COUNCIL

1010 E. Market St.

Indianapolis, Ind.

Instituted August 12, 1881

(Union Label)

Always Demand the Label

UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA

[fol. 100]

CONSTITUTION

ARTICLE I

General

Section A. This body shall be known as Indianapolis and Central Indiana District Council, of the United Brotherhood of Carpenters and Joiners of America, and shall be composed of regularly elected delegates from the Carpenters, Mill and Factory Workers, Local Unions of the United Brotherhood located in Indianapolis and Central Indiana.

The jurisdiction of the District Council shall be bounded by one-half ($\frac{1}{2}$) the distance between its affiliated Locals and the nearest non-affiliated Local Union.

ARTICLE IV

Standing Committees and Their Duties

Sec. 5. A Clearance Card Committee elected as set forth in Section 1, shall examine all Clearance Cards and recommend their acceptance to the Local Unions, or may hold clearances up until the next regular meeting, for investigation before recommending their acceptance by a Local Union of this District Council. Any officer failing to send clearance card members to the District Council Clearance Card Committee shall subject the Local to a fine of Five (\$5.00) Dollars for each offense.

ARTICLE VII

Finance

Section 1. The finances of this District Council shall be derived from the following sources: Sales of Working Cards and Permits. Difference in initiation fees, and Thirty-five (\$35.00) Dollars of all Initiation fees from Construction Local Unions, Ten (\$10.00) Dollars from Millmen Applications, and all Trade Rule infraction fines.

[fol. 101] Sec. 4. This District Council shall issue a quarterly Working Card to the Secretary of each Local Union for each member in good standing in the Local Union as per last monthly report, together with such extra cards as may possibly be required in addition thereto, taking a receipt therefrom, and the Local Union shall be held strictly accountable therefor. The District Council shall have full and complete control over the Working Cards at all times and under all conditions and may at any time, of itself or by its Business Agent, revoke the privileges of the card at its next meeting, together with a full report of the case, and no member shall have or be held to have any redress except from this Council.

Sec. 5. Members coming into this district are required to procure a District Council Working Card and permit, before seeking employment. Failing to comply with this section, they will be fined not less than Ten (\$10.00) Dollars and must at all times be governed by the General Constitution and the Trade Rules of this District.

ARTICLE VIII

Initiation Fees and Dues

Sec. 2. Dues shall be Three Dollars and Fifty Cents (\$3.50) per month for Beneficial and Honorary members of the Carpenters' and Millmen's Locals: Two Dollars and Fifty Cents (\$2.50) per month for Apprentices. In addition to the above-mentioned dues, any increase in wages will automatically raise the dues Ten (10c) Cents per month for all members in the District Council.

[fol. 102]

ARTICLE XI

Job and Shop Stewards

Sec. 2. It shall be the duty of all Carpenters before going to work on any job under the jurisdiction of this District Council to present his Working Card and address to the Steward on said job, subject to a fine of not less than Five (\$5.00) Dollars.

ARTICLE XII

Foremen

Section 1. There shall be a Foreman of Carpenters on all jobs or buildings where there are three or more Journey-men Carpenters employed; the Foreman shall be a Carpenter and a member of the United Brotherhood in good standing with the Indianapolis and Central Indiana District Council. Any member acting in capacity of Foreman

on any job shall receive not less than Twenty-five (25c) Cents more per hour than the minimum rate of wages for a Journeyman. While all Foremen should prove their efficiency as such, they shall not rush, use abusive language, nor otherwise abuse a workman under their direction. A violation of this section is punishable by a fine of not less than Ten (\$10.00) Dollars.

Sec. 3. All Foremen will be held equally responsible with the Steward for the violation of any of the Trade Rules of this Constitution.

ARTICLE XIV

Trade Rules

Sec. 10. No member shall be permitted to work with a member or ex-member who has been fined or suspended after the thirty (30) day limit for payment of fine has elapsed, [fol. 103] unless such fine has been paid in full, under penalty of not less than Five (\$5.00) Dollars fine.

Sec. 21. Union Carpenters of this District shall not be allowed to work with non-union Carpenters without permission of the District Council under penalty of not less than Fifty (\$50.00) Dollars fine.

Approved by:

John R. Stevenson,
First General Vice-President.

March 7, 1957.

[fol. 104].

GENERAL COUNSEL'S EXHIBIT No. 9

Constitution and Laws

of the

UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICAAND RULES FOR SUBORDINATE
BODIES UNDER ITS JURISDICTION

Established August 12, 1881

Constitution as Amended
April 1, 1955

[fol. 104a]

CONSTITUTION

[fol. 105]

HOME

Section 5.

The Home for Aged Members shall be located at
Lakeland, Florida.

[fol. 106]

REVENUE

Section 17. The revenue of the United Brotherhood shall be derived from a per capita tax from all Local Unions on all members in good standing, also \$10.00 on each new member admitted in a Beneficial Local Union and \$5.00 on each new member admitted in Semi-Beneficial Local Unions (this fee does not apply to first year Apprentices), the cost of bonds on all subordinate officers, charter fees, rent of office building, interest on bank deposits, subscribers to and advertisements in the official Journal, clearance cards, fines, the sale of supplies and miscellaneous receipts.

JURISDICTION OF DISTRICT COUNCILS

- A** Section 26. Where there are two or more Local Unions located in one city they must be represented in a Carpenters' District Council, composed exclusively of delegates [fol. 108] from Local Unions of the United Brotherhood, and they shall be governed by such Laws and Trade Rules as shall be adopted by the District Council and approved by the Local Unions and the First General Vice-President. The General President shall have power to order such Local Unions to affiliate with such District Council, and to settle the lines of jurisdiction of such District Council, subject to appeal.
- B** District Councils may be formed in localities other than in cities where two or more Local Unions in adjoining territory request it, or when in the opinion of the General President the good of the United Brotherhood requires it. The District Council so formed shall be governed by the same General Laws governing District Councils in cities.
- C** District Councils shall have the power to make By-Laws, Working and Trade Rules for the government of the Local Unions and the members of the United Brotherhood working in their districts. Also, Laws governing strike and other donations except sick donations, which shall in no way conflict with the Constitution and Laws of the United Brotherhood, and must be adopted by a referendum vote of the members of the Local Unions affiliated with the District Council and approved by the First General Vice-President before becoming law, and their representation shall be according to membership.
- D** The jurisdiction of the District Council shall be as provided for by the Constitution and Laws of the United Brotherhood and named in their charter.
- E** District Councils shall have the power to hold trial for all violations by members or Local Unions and

impose such penalties as they may deem the case requires, subject to the right of appeal under Section 57. The decision of the General Executive Board on violations of Trade Rules is final. District Councils cannot debar their members from working for contractors or employers other than those connected with the Employers' or Builders' Association, nor shall they affiliate with any central organization whose Constitution or By-Laws conflict with those of the United Brotherhood.

F Local Unions other than those working on building material shall not have a voice, vote or delegate in any District Council of the building tradesmen, but may [fol. 109] establish District Councils of their own under By-Laws approved by the First General Vice-President.

G Examining Boards may be established by District Councils or Local Unions where no District Council exists. They shall examine candidates as to their qualifications for membership in the United Brotherhood and must report their findings on all applicants in writing. The examinations shall consist of a practical test in the branch of trade in which the applicant desires employment.

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[fol. 110] ADMISSION OF MEMBERS

A Section 43. A candidate qualified and who desires to become a member of any Local Union of the United Brotherhood must fill out and sign the regular application blank in duplicate and have the same certified to by two members in good standing, as vouchers for the applicant's fitness to become a member. After the applicant has been initiated, the Financial Secretary shall send the original application to the General Secretary at the close of the meeting. The duplicate shall be filed away by the Recording Secretary for future reference.

[fol. 111]

- B** The application of the candidate (except first year apprentices) must be presented to the Financial Secretary with the full initiation fee, which shall be not less than Fifteen Dollars (\$15.00) and a sum equal to one month's dues, together with the proportionate part of the dues for the month in which the candidate is initiated, and before the candidate can be obligated, shall lay over one week for investigation, and shall be referred to a special committee of three, who shall in the meantime inquire into the candidate's qualifications to become a member and report at the next regular meeting of the Local Union, making such recommendations as they deem proper, or the candidate may be elected and initiated at the same meeting if the Investigating Committee reports favorably.

- C** Upon hearing the report of the committee the candidate shall be notified to appear before the members after which the candidate shall be voted or balloted for, and if elected to membership by a majority vote of members present shall be initiated. The Financial Secretary shall place the name of the new member on the books of the Local Union. The new member shall be supplied with a due book and a copy of the Constitution and Laws of the United Brotherhood and By-Laws and Working Rules of the district.

[fol. 112] FINANCES AND DUES

- A** Section 44. Beneficial and semi-beneficial members shall pay not less than Two Dollars (\$2.00) per month dues, Five Cents (5c) of which shall be paid by each of each members as subscription to the official monthly Journal, "The Carpenter," and shall be so applied. No officer or member shall be exempt from paying dues or assessments, nor shall the same be remitted or cancelled in any manner.

- B** Monthly dues shall be charged on the books on the first of each month, but a member does not fall in

arrears until the end of the month in which the member owes a sum equal to three months' dues.

C Each beneficial Local Union shall pay to the General Secretary \$10.00 on each new member admitted, excepting first year apprentices, also One Dollar and Twenty-five Cents (\$1.25) per month for each member in good standing. Ninety Cents (90c) of which shall be used as a fund for the general management of the United Brotherhood and payment of all death and disability donations prescribed by the Constitution and Laws of the United Brotherhood, together with all legal demands made upon the United Brotherhood. The balance of Thirty-five Cents (35c) together with moneys received from new members, to be placed in a special fund for "Home and Pension" purposes.

D Each semi-beneficial Local Union shall pay to the General Secretary \$5.00 on each new member admitted, also Sixty Cents (60c) per month for each member in good standing which shall be used as a fund for the general management of the United Brotherhood, and payment of all death donations prescribed by the Constitution and Laws of the United Brotherhood, together with all legal demands made upon the United Brotherhood.

[fol. 113] MEMBERS IN ARREARS

A Section 45. A member who owes the Local Union two months' dues shall be notified by mail at the last known address by the Financial Secretary during the third month of said delinquency that, if said arrearages are not paid before the last day of the third month the member will be suspended from benefits of death and disability donation, the right to a pension or admittance to the Home until the member squares up entirely all of the indebtedness (including dues for the month in which the member squares up the arrearages) and furthermore that the member will not be entitled to any benefits during the time of such arrearages or

for a three-month period from the date of squaring up same. A member in arrears must square up all arrearages in full within one year or stand suspended from membership.

- B** Members owing a Local Union a sum equal to six months' dues shall have their names stricken from the list of membership without a vote of the Local Union and such members shall be notified at the last known address by the Financial Secretary of the Local Union during the sixth month of said delinquency. An ex-[fol. 114] member desiring to rejoin the Brotherhood may be readmitted only as a new member, subject to such readmission fee as provided for in the By-Laws of the Local Union or District Council where application for membership is made. The Local Union readmitting the ex-member shall ascertain the reasons for having been dropped from membership and if dropped for non-payment of dues, shall collect an additional sum of Five Dollars (\$5.00) to be forwarded to the Local Union where membership was formerly held. If, however, said ex-member owed any fines or assessments at the time of being dropped from membership in the Brotherhood, the Local Union readmitting such ex-member shall collect the amount of the indebtedness and forward it together with the sum of Five Dollars (\$5.00) to the Local Union to which the ex-member formerly belonged.

CLEARANCE CARDS

- A** Section 46. A member who desires to leave the jurisdiction of the Local Union or District Council to work in another jurisdiction must surrender working card and present due book to the Financial Secretary, who shall fill out the clearance card and affix seal thereto. It shall be compulsory, except in case of strike or lockout, for the Local Union to issue said card, providing the member has no charges pending and pays all arrearages, together with current months' dues. Said Clearance Card shall expire one month from date of

issue. It shall be optional with the Local Union or District Council to issue Clearance Card in a jurisdiction where a strike or lockout is in effect. A member may leave such jurisdiction without a Clearance Card to seek work in another jurisdiction where no strike or lockout exists, provided the member presents a statement over the seal of the Local Union or District Council in which membership is held, showing that a strike or lockout is in effect in said jurisdiction. The member shall pay the prevailing charge for a Working Permit in the jurisdiction where work is secured.

B It is compulsory for the member to report and deposit the Clearance Card at the office of the District Council or Local Union where no District Council exists, before securing work, pending a meeting of the Local Union, and comply with all local Laws. And, in no case shall the Financial Secretary accept dues other than to secure Clearance Card from a member working in the jurisdiction of any other Local Union or District Council without the consent of such Local Union or District Council. It shall be the duty of the Financial Secretary accepting dues from a member for Clearance Card who is working in another jurisdiction [fol. 115] to immediately report same to the District Council or Local Union where no District Council exists under penalty of a fine of Five Dollars (\$5.00) for the first offense, Ten Dollars (\$10.00) for the second offense, and for the third offense suspension from all Local Office for a period of two (2) years.

C A member who desires to work in another jurisdiction and returns home daily, or who does not desire to transfer membership, shall before going to work, secure a Working Permit in writing from the Local Union or District Council in the jurisdiction where work is secured. The member shall pay for such Working Permit a charge of not less than Seventy-five Cents (75c) per month, nor more than the monthly dues of the Local Union or District Council, and if less than two years a member shall pay any difference in

initiation fee, and shall be subject to all local assessments levied exclusively for direct trade purposes by and for the use of the Local Union or District Council.

- D No Local Union shall have the right to collect dues again for the month paid on a Clearance Card. The Local Union issuing the card shall pay to the General Secretary the tax for said member for the month only in which the card is issued, and membership will remain in the Local Union issuing Clearance Card until Clearance Card is deposited in another Local Union, whereupon the member becomes a member of the Local Union wherein said card is deposited.

- G On entering a Local Union a member with a Clearance Card shall present same with Due Book to the President, who shall appoint a committee of three to examine the applicant and Due Book and report at once. If the Clearance Card and Due Book are found correct, and the identity of the member established to whom the Clearance Card is granted, the member shall be admitted to the Local Union as a member thereof, provided there is no strike or lockout in effect in that district.

[fol. 116]

- H On deposit of said card the Financial Secretary receiving it must sign and affix the seal to the coupon and forward coupon to the General Secretary at the close of the meeting as evidence of its deposit. The Local issuing the Clearance Card shall refund to the member all dues in excess of the current month. The Financial Secretary receiving the Clearance Card shall immediately report the same to the Financial Secretary issuing the Clearance Card under penalty of Five (\$5.00) Dollars fine.

[fol. 117] **MEMBERS ENTITLED TO
DONATION**

- A Section 48. The purpose of the funeral donation is to see that the deceased member is respectably interred; therefore, on the death of a member in good standing, the claim shall be paid to the estate of the deceased, or to the person presenting satisfactory proof that he or she has paid the funeral bill.
- B If a member in good standing dies without leaving any legal heirs, the Local Union shall see the deceased respectably interred. The officers or a committee of the Local Union shall attend the funeral and the United Brotherhood shall pay the funeral expenses, but in no case shall these expenses exceed the full amount of donation to which the member is entitled at time of death, nor shall the United Brotherhood be held liable for any further donations in the name of the deceased.
- C In the case of any member whose disability or death is caused by intemperance, improper conduct, or by accident or disease incurred previous to joining the United Brotherhood, or by being exposed to risks to which members in their work are not usually liable, neither the member nor any person acting for the member shall have any claims on the United Brotherhood.
- D No claim for donation arising out of any sickness or accident occurring while a member is in arrears shall be allowed.

**BENEFICIAL MEMBER'S FUNERAL
DONATIONS**

- A Section 49. A beneficial member to be entitled to donations must be not less than seventeen and not over sixty years of age at the time of admission to membership, and, when the member joined, must have been in sound health and not afflicted with any disease or subject to any complaint likely to endanger the member's health or cause permanent disability.

B A beneficial member will be entitled to the donations as prescribed in the Constitution and Laws of the United Brotherhood; provided, the member is over one year a contributing or financial member in good standing and when owing a sum equal to three months' dues the member shall be debarred from all donations until three months after all arrearages are paid in full, including the current month.

C Donations for beneficial members between the ages of seventeen and fifty years shall be:

| | |
|-------------------------------------|----------|
| One year's membership | \$100.00 |
| Two years' membership | 200.00 |
| Three years' membership | 300.00 |
| Four years' membership | 400.00 |
| Five years' membership or more | 600.00 |

[fol. 118]

D A candidate between the ages of fifty and sixty years of age when admitted to membership shall be entitled to the donations on condition that they have been a member the required length of time and that they were in good health at the time of their initiation, and in good standing at the time of death, provided however, they are over two years contributing or financial members in good standing, and when owing a sum equal to three months' dues they shall be debarred from all donations until three months after all arrearages are paid in full, which payment must include the payment of dues for the month in which the payment is made. They shall not be entitled to husband or wife funeral donations or disability donations.

E Donations for members admitted between the ages of fifty and sixty years shall be:

| | |
|-------------------------------|----------|
| Two years' membership | \$ 50.00 |
| Three years' membership | 100.00 |
| Five years' membership | 150.00 |
| Ten years' membership | 250.00 |

HUSBAND OR WIFE FUNERAL DONATION

- A** Section 50. A member of a beneficial Local Union between the ages of seventeen and fifty at the time of admission to membership shall, on the death of the husband or wife, be entitled to the husband or wife funeral donation as prescribed in the Constitution and Laws of the United Brotherhood, on condition that the husband or wife was sound in health at the time of admission to membership; provided, however, that a member owing a sum equal to three months' dues, shall be debarred from all donations until three months after all arrearages are paid in full, which payment must include the payment of dues for the month in which the payment is made.
- B** An applicant eligible to beneficial membership, if married, whose husband or wife is in ill health, may be admitted, but in the event of death shall not be entitled to the husband or wife funeral donation. Should the husband or wife be sick at the time of joining the Local Union, then said husband or wife shall, after they become well, be examined by a physician, who shall furnish a certificate of health to the Local Union.
- C** All rules and provisions as to health and conduct applying to a claim for a member's funeral donation shall apply to the claim for a husband or wife funeral [fol. 119] donation for one husband or wife only. If however, both husband and wife are beneficial members, in the case of death of either, the survivor shall not be entitled to any donations other than those specified in Section 49.
- D** The husband or wife funeral donation shall be:

| | |
|--------------------------------------|----------|
| One year's membership | \$ 50.00 |
| Two years' membership | 100.00 |
| Three years' membership or more | 150.00 |

DISABILITY DONATIONS

- A** Section 51. A member of a beneficial Local Union, not less than seventeen and not more than fifty years

of age at the time of admission to membership, and who is in good standing and becomes permanently disabled for life by accidental injuries received not less than one year after becoming a member; and is thereby totally incapacitated from ever again following the trade for a livelihood, shall be entitled to a disability donation as prescribed in these Laws provided, however, when the member owes a sum equal to three months' dues, the member shall be debarred from all donations until three months after all arrearages are paid in full, which payment must include the payment of dues for the month in which the payment is made. Payment of disability donation shall relieve the United Brotherhood from any further obligation and upon the payment of the claim the Financial Secretary shall strike the member's name from the books, and such member shall be eligible for readmission in any Local Union of the United Brotherhood, but only as an honorary member.

- B A permanent disability claim must be filed with the General Treasurer within two years from the date of the accident. Failure to do so shall invalidate the claim.
- C Permanent disability shall consist of total blindness; the loss of an arm or leg, or both; the total disability of a limb; the loss of four fingers of one hand; or being afflicted with any physical disability resulting from accidental injuries.
- D Whenever such disability has occurred through actual negligence, or the use of alcoholic drinks on the part of the disabled member, such member shall not be entitled to donations.
- E In all claims for disability donations the claimant shall be carefully and thoroughly examined by two competent and reputable physicians selected by the Local Union, and they shall send a certificate in writing to the Local Union as to the nature and extent of the disability and their opinion whether the claimant

[fol. 120] is totally disabled for life within the meaning of this section. The expenses of said examination shall be paid by the Local Union and the report of said physicians shall be sent to the General Treasurer.

- F When a member in a beneficial Local Union, not less than seventeen and not more than fifty years of age at the time of admission to membership, who is in good standing, meets with accidental injuries which might totally and permanently disable the member from ever again following any branch of the trade for a livelihood, any member shall report the accident to the Local Union within thirty days from the date of the accident and the Local Union shall appoint a committee to visit the member and secure from such member a detailed statement in writing as to how, when, and where the accident happened, the names of witnesses, if any, and retain same on file pending possible future claim for disability donation. The amount of disability donations shall be computed from the date of initiation to the date of accident.

- G The disability donation shall be:

| | |
|-------------------------------------|----------|
| One year's membership | \$ 50.00 |
| Two years' membership | 100.00 |
| Three years' membership | 200.00 |
| Four years' membership | 300.00 |
| Five years' membership or more | 400.00 |

SEMI-BENEFICIAL MEMBER'S DONATION

- A Section 52. Candidates who are less than sixty (60) years of age when admitted to membership in a semi-beneficial Local shall be entitled to the donations provided for semi-beneficial members on condition that they have been members the required length of time, that they were in good health at the time of their initiation and in good standing at the time of death, provided, however, they are over two years contributing or financial members in good standing, and when owing a sum equal to three months' dues they shall

be debarred from all donations until three months after all arrearages are paid in full, which payment must include the payment of dues for the month in which the payment is made. They shall not be entitled to husband or wife funeral donations or disability donations.

B Semi-beneficial members' donations shall be:

| | |
|-------------------------------------|----------|
| Two years' membership | \$ 50.00 |
| Three years' membership | 100.00 |
| Five years' membership or more | 150.00 |

[fol. 121] **PRESENTATION AND
PAYMENT OF CLAIMS.**

- A** Section 53. When death or disability occurs, the person applying for donation shall present to the Local Union concerned a certificate of the facts from the attending physician, and, if approved by the Local Union, the same shall be forwarded by the Financial Secretary to the General Treasurer, with the claim certificate of the United Brotherhood, properly filled out, and shall send all other papers required.
- B** All death claims must be filed with the General Treasurer within six months from date of death, failure to do so shall invalidate the claim. If a claim is disapproved by the General Treasurer, the party or parties shall have the right to appeal to the General Executive Board any time within six months from the date of disapproval and, if still dissatisfied, shall have the right to appeal any time within two years from date of decision by the General Executive Board to the next General Convention.
- C** Upon receipt of a claim, the General Treasurer shall investigate the same and, if approved shall at once forward to the Financial Secretary a bank check or draft for the amount of the donation due and payable to the person entitled to receive it.
- D** Any officer, member or Local Union making use of improper means to obtain donations, or who shall make

false statements as to age or health, or knowingly present or sign any claim of a fraudulent character for donations, upon proof thereof, may be fined, suspended or expelled from the United Brotherhood.

HOME AND PENSION

- A Section 54. A member shall not be less than sixty-five years of age to be eligible to the Home or Pension.
- B A member shall hold continuous membership for not less than thirty years.
- C The traveling expenses of a member whose application for admittance to the Home has been approved by the proper authorities shall be paid by the Local Union in which membership is held.
- D Members not wishing to avail themselves of the privilege of entering the Home may apply for a Pension not to exceed \$15.00 per month, payable quarterly.
- E Members applying for the Pension must apply for same through the Local Union in which they hold membership on forms furnished by the General Office.
- F No pension will be paid until an application has been properly filled out by the Local Union in which applicant holds membership and same has been approved by the General President.
[fol. 122]
- G Payment of Pension will be made at the beginning of the calendar quarter following approval of the application.
- H A member who qualifies under Paragraphs "A" and "B" of this Section and who receives State aid in those states where the amount of Pension paid by the Brotherhood is deducted from the amount of State pension, shall apply through the Local Union for a paid-up life membership, thereby relieving the member from paying further dues, and the Local from paying per capita tax to the United Brotherhood.

[fol. 123] **GENERAL STRIKES AND
LOCK-OUTS**

- A** Section 59. Strikes inaugurated and conducted according to the following rules may be sanctioned by the General Executive Board and financial aid ex-
[fol. 124] tended to the extent that the General Executive Board deems adequate. All trade movements to be first submitted to the General Secretary.
-

[fol. 125]

- L** When financial aid has been granted by the General Executive Board to members on strike, the list of members on strike or locked out, must be submitted to the General Office before financial aid will be allowed by the General Executive Board. The list to be checked up with the membership records at the General Office, and it shall not be payable until the end of the second week, and then only for the second week, to such members as have been on strike or locked out for two full weeks in succession. Members in arrears [fol. 126] shall square up their arrearages out of the first strike payment. Only those members who are called out on strike or who are locked out shall be entitled to strike pay.

- M** The Treasurer of the District Council, or Local Union where no District Council exists, shall send promptly to the General Secretary at the close of each week a complete financial report, on forms furnished by the General Secretary, of all moneys paid from the funds donated by the General Executive Board. Members receiving strike pay must sign their names on form opposite the amount received and the forms must be countersigned by the Chairman and Treasurer of the Strike Committee and attested to by the Recording Secretary of the Local Union or District Council and have the seal affixed. During the continuance of the strike the Secretary of the Local Union or District Council, or the Secretary of the Strike Committee,

shall report at the close of each week to the General Secretary in detail all matters of interest pertaining to the strike. The General Executive Board shall not vote any additional appropriation until the provisions of this Section are complied with.

- N** In case of a strike or lock-out, where immediate aid is required, the General President, General Secretary and General Treasurer shall be vested with power to appropriate such sums as, in their judgment, they deem advisable to meet these particular demands, and until such time as the General Secretary can act upon the same through correspondence with the General Executive Board.
- O** The General Executive Board shall have power when satisfied from facts and information in their possession that support in a strike or lock-out should cease, to declare the same at an end so far as the financial aid of the United Brotherhood is concerned.
- P** In case of a general lock-out of members of the United Brotherhood in any locality, the Secretary of the District Council, or the Local Union where a District Council does not exist, shall immediately mail to the General Secretary a complete statement of the causes leading up to the lock-out. The General Secretary will submit the same to the General Executive Board, who may appropriate funds for support of the members involved. The rules governing the disbursement of funds appropriated for strikes shall govern all appropriations made by the General Executive Board for support of members locked out.

[fol. 127]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

September Term, 1959—January Session, 1960

No. 12710

NATIONAL LABOR RELATIONS BOARD, Petitioner,

v.

LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; INDIANAPOLIS AND CENTRAL INDIANA DISTRICT COUNCIL, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; and UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO, Respondents.

On Petition for Enforcement of an Order of the National Labor Relations Board.

OPINION—January 22, 1960

Before Schnackenberg, Knoch and Castle, Circuit Judges.

Knoch, Circuit Judge. The National Labor Relations Board seeks enforcement of its Order against the three respondents, hereinafter called respectively: "Local 60," "the Council," and "the International."

The Board found that Mechanical Handling Systems, Inc., hereinafter called "the Company", maintained two agreements with the respondents. One was a master contract to which the International was a party. The other was an oral agreement to which Local 60 and the Council were parties.

[fol. 128] The Board found that both agreements operated to require union membership as a condition of employment in violation of Section 8(b)(2) and (1)(A) of the Na-

¹ The Council is composed of delegates from various locals in the area, including Local 60, which are affiliated with the International.

tional Labor Relations Act, as amended; and that enforcement of these agreements prevented the hiring of two specified employees.

The master contract provided:

We, the firm of Mechanical Handling Systems, Inc., Agree to recognize the jurisdiction² claims of the United Brotherhood of Carpenters and Joiners of America, to work the hours, pay the wages and abide by the rules and regulations established or agreed upon by the United Brotherhood of Carpenters and Joiners of America of the locality in which any work of our company is being done, and employ members of the United Brotherhood of Carpenters and Joiners.

The rules and regulations established or agreed upon by the United Brotherhood of Carpenters and Joiners of America applicable in Indianapolis, Indiana, thus incorporated by reference, appear in the constitution and trade rules of the Council. These provide (*inter alia*) that (1) union members may not work with members, or ex-members, who have been suspended or fined (until the fine has been paid) and may not work with non-members without permission of the Council; and (2) members must present working cards to the union steward on the job before going to work; members of foreign locals of this same Union coming into the area must secure working cards before seeking employment.

The Council obtains a part of its revenue from fees collected for cards and permits. The Council has the sole right to issue quarterly working cards to the locals for their members (and such extra cards as may be required) for all of which the local union is accountable to the Council. The Council has authority to revoke cards. The Council's constitution provides for a clearance card committee to examine all clearance cards and make recommendations to the local union regarding acceptance of such cards. The trade rules provide for a foreman of carpenters on all jobs where three or more journeymen carpenters are employed. The foreman must be a member in good stand-

[fol. 129] ing. He shares responsibility with the union steward for enforcement of the trade rules.

In his Intermediate Report, the Board's Trial Examiner had found the master contract to be illegal. No exceptions were filed to this finding by the respondents and the Board adopted that finding. However, the Board did not adopt the Trial Examiner's conclusion that no connection existed between the master contract and the oral contract (discussed below) to which the Company, the Council and Local 60 were parties.

On the basis of the above quoted provision of the master contract and the rules incorporated by reference, the Board found that the master contract provided such limitations on hiring as to establish the closed shop conditions outlawed by the Statute.

The Trial Examiner found further (and the Board adopted his finding) that an illegal oral agreement had been made. In January, 1957, the Company was installing conveyor equipment in the Ford Motor Company plant at Indianapolis. The superintendent in charge of the job agreed with the Council's President, the only person authorized to make contracts for the Council and for Local 60, that the Company would abide by the master contract; would hire all needed millwrights and carpenters through Local 60, employing only those who brought referral slips from the Local; and that wages and working conditions would be governed by the Council's current contract with the local Building Contractor's Association.

The Board concluded that this oral agreement was made to implement the master contract and was part of a single comprehensive plan to evade the statutory ban on closed shops. *The Marley Company*, 117 N.L.R.B. 107, 109, 110 (1957).

Hafford B. Carter and Elza Stevenson, who had worked for the Company in Louisville, Kentucky, were not members of Local 60, nor of the Council, but were members of other locals affiliated with the same International Union. They applied for employment with the Company at the Ford job and were sent to Local 60 for referral cards. Referral cards were denied them, although when the person in charge at the Council office telephoned the Company

[fol. 130] superintendent, the superintendent said that he would have work for these two men within two weeks. Later the Company superintendent told Carter that he wished both men to begin work the following day. The Company superintendent wrote the Council's President asking for work permits for these two men, but the permits were, nevertheless, refused. Neither man ever received a permit and neither was ever allowed to work on the Ford job.

Charges were filed with the Board on behalf of Carter against the International, the Council, and Local 60, and on behalf of Stevenson against the Council and Local 60. Thus no finding was made against the International as to discrimination with respect to Stevenson.

The Board's Order required all three respondents to cease and desist making or enforcing agreements which required union membership as a condition of employment; to reimburse all employees of the Company for dues, assessments, and permit fees illegally exacted under the illegal contracts with the Company; to make Carter whole for loss of earnings; and to make certain notifications and to post specified notices. Similar actions were required of the Council and Local 60 with respect to Stevenson.

Although none of the respondents did so, the General Counsel for the Board had filed exceptions to the Trial Examiner's Intermediate Report. Had no exceptions been filed, the Trial Examiner's Recommended Order would have become the Board's Order. The Trial Examiner, as indicated, had found no connection between the master contract and the oral contract. He had concluded that the International engaged in none of the unfair labor practices alleged in the complaints. Further he had recommended that Local 60 and the Council be required to make restitution only to Carter and Stevenson for loss of pay arising from the discriminatory refusal of employment.

The International filed a motion to dismiss the proceedings before the Board on the ground that the exceptions filed by the General Counsel on February 21, 1958, were not served on the International immediately as required by Section 102.46 of the Board's Rules and Regulations. The exceptions were due in Washington, D. C. on February 24, 1958. They were received by the Board in apt time.

[fol. 131] The Board found that the General Counsel had mailed copies to all three respondents on February 21, 1958, by certified mail, an approved mode of service under Section 102.46 and 102.89 of the Board's Rules and Regulations. Section 102.90 provides that the date of service is the day when the material to be served is deposited in the United States Mail. No signed receipt slip for the certified mail was returned to the General Counsel from the International, but certified mail receipt slips from Local 60 and the Council show timely receipt of the copies by them. All three respondents were represented by the same counsel in these proceedings. Later personal service was made on counsel for the International, which was accordingly given additional time to answer the exceptions so that it was in no way prejudiced. As the Board found neither prejudice to respondents nor lack of due process in the service of copies of exceptions, motion to dismiss was denied and the Board concluded that valid service had been made. We agree.

Respondents argue that the evidence fails to show any dues, assessments and fees exacted under the agreements found to be unlawful; that on the contrary, all such fees were paid voluntarily. However, in our opinion, the record does support the Board's finding that such fees were coerced in that there was present an implicit threat of loss of job if those fees were not paid. The rules of the Council and Local 60 provided for supervision on the job to prevent any but local union members in good standing from working. The three respondents had full control of employment of millwrights and carpenters on the Ford job, even to veto over the Company superintendent's wishes to hire two former employees, both members of other locals affiliated with the same International. The fact that a contrary inference was possible does not empower this Court to set aside the inference drawn by the Board. *Virginia Electric Company v. N.L.R.B.*, 319 U.S. 533, 542-543 (1943). Respondents argue that the affected employees were already union members when the agreements were made and hence could not have been forced to join by the agreements. They were, however, deprived of their right

to resign. The burden rested on respondents to show that even without the unlawful discrimination; the Company's [fol. 132] employees would have maintained their membership in Local 60. *N.L.R.B. v. Remington Rand, Inc.* (2 Cir., 1938) 94 F. 2d 862, 872, cert. den. 304 U. S. 576.

Contrary to respondents' contention, we find reimbursement of fees to be a proper and appropriate remedy to restore employees to the position they would have enjoyed but for the illegal practices. There is no showing that the Order represents any attempt to attain ends other than effectuation of the policies of the Act. *Virginia Electric Power Co. v. N.L.R.B.*, supra, 539, 540. The Board has wide discretion in ordering affirmative action against those found to have committed unfair labor practices. *Dixie Bedding Co. v. N.L.R.B.* (5 Cir., 1959) 268 F. 2d 901, 907; *N.L.R.B. v. Broderick Wood Products Co.* (10 Cir., 1958) 261 F. 2d 548, 559. The complex problem presented is broader than the interests of the named litigants. The rights of an indeterminate number of employees and of the public are involved.

Substantial evidence in the record as a whole supports the Board's findings and shows that the Board has directed a just and reasonable remedy under the circumstances herein. Other arguments advanced by respondents, not herein discussed in detail, have received careful examination in arriving at the conclusions expressed. The Board's petition for enforcement of its Order is granted.

[fol. 133]

IN UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
No. 12710

NATIONAL LABOR RELATIONS BOARD, Petitioner,

v.

LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; INDIANAPOLIS AND CENTRAL INDIANA DISTRICT COUNCIL, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; and UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO, Respondents.

Petition for Enforcement of an Order of the National Labor Relations Board.

JUDGMENT—January 22, 1960

This cause came on to be heard on the petition of the National Labor Relations Board for enforcement of its order entered December 15, 1958, respondents' answer to said petition, and the record from the National Labor Relations Board, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the petition of the National Labor Relations Board for enforcement of its order of December 15, 1958, be, and the same is hereby, Granted, in accordance with the opinion of this Court filed this day.

[fol. 134]

[File endorsement omitted]

IN UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

No. 12710

NATIONAL LABOR RELATIONS BOARD, Petitioner,

v.

LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; INDIANAPOLIS AND CENTRAL INDIANA DISTRICT COUNCIL, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO; and UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO, Respondents.

DECREE—Filed February 15, 1960

Before: Schnackenberg, Knoch and Castle, Circuit Judges.

This Cause came on to be heard upon the petition of the National Labor Relations Board for the enforcement of a certain order issued by it against Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO; Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO; and United Brotherhood of Carpenters and Joiners of America, AFL-CIO, their officers, representatives, agents, and assigns, on December 15, 1958. The Court heard argument of respective counsel on November 20, 1959, and has considered the briefs and transcript of record filed in this cause. On January 22, 1960, the Court, being fully advised in the premises, handed down its decision granting enforcement of the Board's order.

On Consideration Whereof, it is ordered, adjudged and decreed by the United States Court of Appeals for the Seventh Circuit that the said order of the National Labor

Relations Board in said proceeding be enforced, and that Local 60, United Brotherhood of Carpenters and Joiners of America, AFL-CIO; Indianapolis and Central Indiana District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO; and United Brotherhood of Carpenters and Joiners of America, AFL-CIO, their officers, representatives, agents, and assigns, abide by and perform the directions of the Board in said order contained.


Elmer J. Schnackenberg, Win G. Knoch, Latham
Castle, Judges, United States Court of Appeals
for the Seventh Circuit.

A True Copy:

Teste:

Kenneth J. Carrick, Clerk of the United States Court of
Appeals for the Seventh Circuit.

[SEAL]

 [fol. 135] Clerk's Certificate to Foregoing Transcript
(omitted in printing).

[fol. 136]

SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING CERTIORARI—June 27, 1960

The petition herein for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit is granted. The case is transferred to the summary calendar and set for argument immediately following No. 929.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

No. **68**
246

JAN 1960

IN THE
Supreme Court of the United States
OCTOBER TERM, 1959

LOCAL 60, UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, AFL-CIO; INDIANAPOLIS AND
CENTRAL INDIANA DISTRICT COUNCIL; UNITED
BROTHERHOOD OF CARPENTERS AND JOINERS
OF AMERICA, AFL-CIO; AND UNITED
BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, AFL-CIO,

Petitioners

NATIONAL LABOR RELATIONS BOARD,

Respondent

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

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